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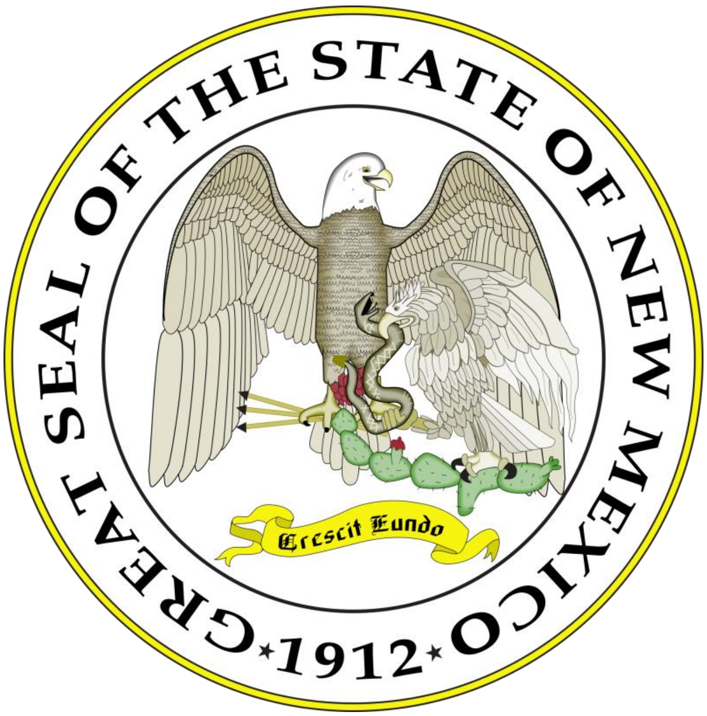
New Mexico Taxation
and Revenue
Department



New Mexico
Tax Expenditure Report

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SECRETARY'S MESSAGE

This Tax Expenditure Report is an important transparency tool that allows State policymakers, advocacy groups, and the public an opportunity to evaluate the State's tax code in a way that would not otherwise be possible. The State's operating budget provides detailed information about how the State's revenues are expended on various competing priorities. However, without this Tax Expenditure Report, we would lack the ability to evaluate the implications of the revenue that the State foregoes through myriad tax credits, deductions, exemptions, preferential tax rates, and other tax expenditures. Just as the State's appropriations are evaluated and reprioritized annually, tax expenditures should be periodically reviewed to ensure they are achieving their intended consequences at an appropriate cost to the public.

TRD is fortunate to have a team of talented economists who dedicated many hours throughout the year researching and evaluating the tax expenditures catalogued in this report. The primary contributors to this report are TRD economists James Girard, Lucinda Sydow, and Robert McGrail. An undertaking of this magnitude would not be possible without the professional skills and diligence of this group. Nor would it be possible without the cooperation of other State agencies that play a role in administering many of the tax incentives New Mexico uses to encourage beneficial social and economic activity. We are grateful for their assistance.

Stephanie Schardin Clarke
Secretary of Taxation and Revenue
State of New Mexico

PERSONAL INCOME TAX

Like a number of other states, New Mexico bases its Income Tax (referred to herein as "Personal Income Tax" or PIT) on the federal definition of taxable income. [1] This approach is simpler than that of some other states, which substitute their own definitions for elements of taxable income that differ from federal definitions. While this approach simplifies compliance for taxpayers, it also means that New Mexico "piggybacks" on the many exclusions from taxable income provided by federal law. Because these policies are common practice among the states and because they are applied broadly to all taxpayers who qualify, they are not treated as tax expenditures in this report.

Current New Mexico PIT tax rates are shown in the following table. Although New Mexico's rates are generally in line with those imposed by other states, the structure of the tax brackets varies significantly across states. Given the lack of a standard definition of the tax bracket structure, this report does not treat the lower rates imposed on low-income brackets as a tax expenditure. The PIT rates for tax year 2017[2] are:

Married Filing Separately	Head of Household, Surviving Spouses, and Married Filing Jointly	Individuals, Estates, and Trusts	Rate
Up to $4,000	Up to $8,000	Up to $5,500	1.7%
Over $4,000 to $8,000	Over $8,000 to $16,000	Over $5,500 to $11,000	3.2%
Over $8,000 to $12,000	Over $16,000 to $24,000	Over $11,000 to $16,000	4.7%
Over $12,000	Over $24,000	Over $16,000	4.9%

New Mexico law provides a number of special tax preferences that are reported on various forms as supplements to the annual Income Tax return. A number of these are reported on as tax expenditures in this report.

CORPORATE INCOME TAX

New Mexico's corporate income tax ("CIT") is also based on the federal corporate income tax with the same corresponding administrative benefits for taxpayers and the State in its administration.

Section 7-2A-2(C) NMSA 1978 defines "base income" as that part of the taxpayer's taxable income upon which the federal income tax is calculated, excluding the amount of the net operating loss carryover deduction and including interest received on state or local bonds[3]. The statute then defines "net income" as base income adjusted by exclusions of income from the obligations of the

[1] For reference, a list of commonly used acronyms is provided in Appendix C.
[2] PIT data from tax year 2017 and CIT data from tax year 2016 is the most complete dataset available at the time of publication of this report. The current PIT rates have been in effect since 2008.
[3] Section 7-2A-2(C) NMSA 1978

federal government, other income where tax is prohibited by explicit statutory or constitutional authority, and statutory provisions for net operating loss carryover deductions[4].

Thus, "net income" is defined as the tax base for CIT purposes in New Mexico, and, by application of the income-graduated percentage tax rate, "baseline tax revenue" is defined.

The following table shows the CIT rates from 1987 through full implementation of HB641 (2013) in 2018:

	1987-2013	2014	2015	2016	2017	2018
Up to $500,000	4.8%	4.8%	4.8%	4.8%	4.8%	4.8%
$500,000.01 to $1,000,000	6.4%	6.4%	6.4%	6.4%	6.2%	5.9%
Over $1,000,000	7.6%	7.3%	6.9%	6.6%		

The 2013 Legislative Session produced two additional CIT changes, including mandatory combined reporting for certain retailers and single-sales factor apportionment election for manufacturers. The 2015 Legislative Session added the single-sales factor apportionment election for headquarters. These and a significant number of other incentives in the CIT code are discussed further in this report.

GROSS RECEIPTS TAX

The Gross Receipts Tax (GRT) is the workhorse of state and local finances in New Mexico, providing about 40 percent of State General Fund revenue and about 50 percent of local government funds. The State GRT tax rate of 5.125% plus various local option taxes are imposed on sellers' gross receipts received from engaging in business in the state. "Gross receipts" is the total amount of money or other consideration generated "from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside of New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico"[5].

The baseline definition of the tax base for the GRT has the appearance of a broad-based business activity tax (BAT) like the BAT taxes imposed in states like Washington and Ohio. For example, the GRT is imposed on sellers for the privilege of engaging in business in the state,[6] and it applies to "any activity with the purpose of direct or indirect benefit."[7] This is a far more comprehensive tax base than the typical retail sales tax imposed by most states. It is also more comprehensive than a value added tax (VAT) base, an alternative form of consumption taxation adopted in many other countries. However, unlike the BAT taxes of other states, the GRT base is reduced by many exemptions and deductions. These provisions are intended to achieve a variety of public policy purposes, as discussed further in this report. Many of them are necessary to prevent multiple taxation of transactions, either within the GRT or between the GRT and other tax programs, and the associated economic distortion that would cause. Examples include the exemption for wages, dividends, and interest, all of which are taxed under the income tax. Also exempt are various transactions which are taxed under separate excise taxes, including motor fuels, motor vehicles, etc.

[4] Section 7-2A-2(H) NMSA 1978
[5] Section 7-9-3.5(A)(1) NMSA 1978
[6] Section 7-9-2 NMSA 1978.
[7] Section 7-9-3.3 NMSA 1978.

The cumulative effect of these exclusions from the GRT base makes the GRT function more like a broad-based consumption tax than a BAT.[8]

For purposes of identifying GRT tax expenditures, which are defined by reference to a standard or "normal" set of provisions, this report will compare the GRT with a broad-based consumption tax like a VAT. Thus, the exemptions and deductions that would be allowed in a VAT are generally not treated as tax expenditures in this report. Examples of the latter include "anti-pyramiding" provisions like the deduction for the sale of property for resale. This report does not attempt to describe what might be termed "negative tax expenditures," i.e. imposition of tax on transactions that would not be taxed under the normative tax system. The GRT contains a number of such provisions, and has therefore been characterized as imposing a heavier-than-normal rate of tax on business inputs.[9] This practice creates economic distortion because, for example, small businesses must purchase more of the goods and services they need from outside companies than do large businesses; the GRT on those inputs creates a discriminatory burden on them relative to larger businesses. Deductions, like the deduction for the sale of goods for re-sale, reduce this burden and ensure that the tax policy principles of Horizontal Equity and Efficiency are met.

GRT tax expenditures in this report are calculated using an average gross receipts tax rate. The average GRT rate in fiscal year 2018 of 7.15%, was calculated using the gross tax amount as reported through the RP-500 monthly report for all industries within all cities and counties divided by the amount of matched taxable gross receipts as reported in the RP-500 for the State General Fund.

The RP-500 is a monthly report that provides the detail behind the distributions made to each municipality or county for the month in which the business activity took place. The RP-500 report breaks down the distributions into either the current activity month or all other months, which can be from late reporting or amendments. As an example, if Taxpayer A amends returns for six months in the reporting month of September it will affect the distribution made in October and would be reported under "Other Months" in the report. The result is that the RP-500 is not updated with the effects of taxpayer amendments on older returns. Instead, they are aggregated into the "Other Months" category.

The RP-500 also contains a summary of information from the Combined Revenue System (CRS) return summarized by the major industry group[10] of the taxpayer. The taxpayer self-identifies their industry group on their CRS registration form using a list provided by the Department. Although a valuable resource on industry contributions to the tax base, users of this information should be aware that it provides only an approximate measure of the types of economic activity in the tax base. For example, a taxpayer may report that they are primarily a Retail enterprise, but they may carry on a variety of commercial activities such as Real Estate management, Wholesale Trade, Transportation and Warehousing, etc. Receipts from their various activities that are sourced to the same location will generally be combined and reported under their primary industry code.

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[8] The rate of GRT tax also distinguishes it from other states' BAT's. The latter are typically imposed at much lower rates of 1% to 2% as opposed to the GRT's average rate of over 7%, which is comparable to average sales tax rates in other states.

[9] For example see Council on State Taxation, "*The Best and Worst of State Sales Tax Systems.*"

[10] Industries self-identify their activity by the appropriate North American Industrial Classification System or "NAICS" Code using a list provided by the Department. This is a common classification system developed by the U.S. Bureau of Economic Analysis and used for governmental reports throughout the country.

As discussed further below, the GRT tax base, referred to as "taxable gross receipts" or TGR, is determined by subtracting from gross receipts any receipts that are eligible for either an exemption or a deduction. As a general rule, taxpayers do not separately state the amounts that are exempt or deductible pursuant to each provision of the tax code. Rather, most exemptions and deductions are lumped together. Although this may seem an inadequate amount of transparency, maintaining a relatively simple tax return is crucial to enable taxpayers to file and the Department to process over 100,000 GRT tax returns every month. Revenue from these returns is critical to meeting the cash flow needs of State and Local governments, so any delay or inaccuracy in reporting can potentially cause financial distress for public budgets.

Although it limits the Department's ability to report on the amounts of certain deductions and exemptions, the absence of itemized reporting for most exemptions and deductions does not limit the Department's ability to enforce compliance with these statutes. The Department provides extensive guidance to taxpayers and their advisers on the proper means of reporting their receipts, exemptions and deductions. Automated processes are used to compare CRS returns with federal tax reports and other data sources to identify potential misreporting. Taxpayers are required upon audit to demonstrate the specific exemptions and deductions they relied upon in determining their taxable gross receipts. Lack of adequate evidence results in disallowance of the deducted or exempted amounts with a potential liability for penalty and interest in addition. Thus, although GRT collections of necessity rely on self-reporting, the Department expends significant resources to ensure statutory compliance.

In response to Legislative requirements for separate reporting of certain statutory deductions, the Department has added reporting requirements to the CRS return in recent years. There are now nineteen "special deduction codes" identified in the CRS return instructions. Taxpayers are informed that they must use the special code if they are claiming the relevant deduction. Where available and not in violation of confidentiality requirements, the data from amounts reported under these codes are presented in this report to estimate fiscal impacts of the associated deductions. However, this information may not measure the total amount being deducted pursuant to the section of law because taxpayers would not be penalized if they elect to aggregate the deducted amounts pursuant to the section with those deducted pursuant to other provisions of law. TRD takes steps to ensure accurate reporting of separately stated deductions, but, due to the lack of a penalty for misreporting, we cannot be certain that the amounts shown reflect the total amount deducted pursuant to this statute.

COMPENSATING TAX

In New Mexico, a compensating tax is imposed at a rate of 5.125% on the use of tangible property and 5% on certain services used in New Mexico. This tax is New Mexico's version of a "use" tax, which is the mechanism states use to ensure that purchases from out of state do not compete unfairly with purchases from in state. Unlike the GRT, the legal incidence of the compensating tax is on the purchaser, but the collection obligation for the compensating tax may transfer to the seller if the seller is not subject to GRT and can be required to fulfill this collection obligation under the U.S. Constitution. Typically, the compensating tax is imposed on New Mexico businesses when they purchase from out-of-state vendors. Because of the unusual nature of the GRT, many of the deductions from the compensating tax base can be thought of as simply defining the tax base.

OTHER EXCISE TAXES

As is the case with the GRT and the compensating tax, New Mexico's excise taxes contain several provisions which serve to define the tax base by preventing double taxation or tax pyramiding. Examples include the exemption for sales of cigarettes on tribal lands to tribal members. Other provisions are treated as tax expenditures in this report, including the sale of cigarettes by tribal vendors to non-tribal members. Even though these transactions may be subject to tribal taxes, the rates of tax may be substantially lower than the State's tax rate, effectively creating a tax expenditure.

NATURAL RESOURCE EXTRACTION TAXES

New Mexico imposes a variety of taxes on natural resource extraction and production activities. These taxes are generally imposed on the privilege of severing natural resources and the largest of the deductions associated with these taxes reduce taxable value for royalties paid to federal, Indian, and state owners of the minerals. Because the State is preempted from imposing tax on these entities — or because it wouldn't make sense for the State to tax itself — these are not treated as tax expenditures. Most of the remaining deductions allowed under New Mexico's minerals production taxes, such as processing and transportation deductions, serve to define the tax base because taxable value for the severed products is determined at the extraction location. Because the actual sales of severed materials often occur after the materials have been transported from the extraction site and processed to some degree, these deductions are necessary to determine the value of the product that forms the statutory tax base. Other provisions, aimed at stimulating particular types of production, for example, are treated as tax expenditures.

The tax expenditures for oil and gas listed in this report incentivize continued production when prices drop below specific thresholds. Because prices have generally exceeded the threshold values that would trigger incentives, tax expenditures for oil and gas remain at zero in this report as they have been for over 10 years.

PROPERTY TAX

New Mexico's property tax law features a number of limitations and exclusions that reduce the tax burden on various groups of property owners for various reasons. Some of these are broad-based, and are not treated as tax expenditures in this Report. Examples include the exclusion from tax of personal property and the 3% limit on annual value growth for residential property. Note that many property tax deductions and limitations are provided for in the state constitution and therefore are also not included as an expenditure. Other provisions that target specific populations are included. Note that because most property taxes are assessed and collected at the county level, TRD does not maintain data that addresses the impact of property tax expenditures.

PERSONAL INCOME TAX BY INCOME BRACKET TABLE

All Tax Payers (Tax Year 2017 Data)						
Income Bracket	**Number of Returns**	**Percent Returns**	**New Mexico Taxable Income by Bracket**	**Percent NM Taxable Income**	**Estimated Tax on TI in Bracket**	**Percent Tax**
No Taxable Income	348686	35.05%	$0	0.00%	$10,192	0.00%
Under $25,000	249993	25.13%	$2,675,593,101	2.95%	$69,625,707	5.22%
$25,000-$50,000	148574	14.94%	$5,433,868,771	5.99%	$194,929,633	14.61%
$50,000-$75,000	89447	8.99%	$5,497,297,399	6.06%	$207,755,308	15.58%
$75,000-$100,000	52418	5.27%	$4,524,338,477	4.98%	$171,072,587	12.83%
$100,000-$200,000	67425	6.78%	$9,141,063,617	10.07%	$327,567,353	24.56%
Over $200,001	38177	3.84%	$63,501,631,649	69.96%	$362,920,389	27.21%
Total	**994720**	**100.00%**	**$90,773,793,013**	**100.00%**	**$1,333,881,168**	**100.00%**
Single Filers						
No Taxable Income	176346	38.05%	$0	0.00%	$4,720	0.00%
Under $25,000	154601	33.36%	$1,601,825,811	8.69%	$44,246,911	12.30%
$25,000-$50,000	72958	15.74%	$2,616,104,382	14.19%	$98,043,556	27.25%
$50,000-$75,000	30244	6.53%	$1,834,583,983	9.95%	$71,278,139	19.81%
$75,000-$100,000	12590	2.72%	$1,080,233,351	5.86%	$41,151,100	11.44%
$100,000-$200,000	11190	2.41%	$1,484,315,852	8.05%	$51,153,665	14.22%
Over $200,001	5497	1.19%	$9,816,655,869	53.25%	$53,874,333	14.98%
Total	**463426**	**100.00%**	**$18,433,719,247**	**100.00%**	**$359,752,423**	**100.00%**
Head of Household Filers						
No Taxable Income	83633	52.54%	$0	0.00%	$437	0.00%
Under $25,000	45708	28.71%	$458,190,751	14.64%	$10,723,954	13.77%
$25,000-$50,000	17352	10.90%	$626,277,136	20.02%	$22,164,958	28.46%
$50,000-$75,000	7061	4.44%	$425,044,220	13.58%	$16,424,914	21.09%
$75,000-$100,000	2492	1.57%	$213,332,306	6.82%	$8,305,523	10.67%
$100,000-$200,000	2067	1.30%	$271,233,195	8.67%	$10,056,393	12.91%
Over $200,001	874	0.55%	$1,134,789,429	36.27%	$10,196,415	13.09%
Total	**159187**	**100.00%**	**$3,128,867,036**	**100.00%**	**$77,872,594**	**100.00%**
Joint & Surviving Spouse						
No Taxable Income	85686	23.83%	$0	0.00%	$4,943	0.00%
Under $25,000	46044	12.80%	$569,349,248	0.86%	$13,177,467	1.50%
$25,000-$50,000	55311	15.38%	$2,084,568,283	3.16%	$70,554,141	8.04%
$50,000-$75,000	50936	14.16%	$3,164,067,884	4.80%	$117,177,894	13.35%
$75,000-$100,000	36761	10.22%	$3,181,183,326	4.83%	$119,781,739	13.64%
$100,000-$200,000	53673	14.92%	$7,319,001,634	11.10%	$264,310,311	30.11%
Over $200,001	31212	8.68%	$49,611,443,783	75.25%	$292,896,502	33.36%
Total	**359623**	**100.00%**	**$65,929,614,157**	**100.00%**	**$877,902,998**	**100.00%**
Separate Filers						
No Taxable Income	2232	20.69%	$0	0.00%	$92	0.00%
Under $25,000	3148	29.18%	$41,159,408	1.32%	$1,350,685	7.83%
$25,000-$50,000	2732	25.32%	$98,990,918	3.18%	$3,873,205	22.46%
$50,000-$75,000	1095	10.15%	$66,900,965	2.15%	$2,614,697	15.16%
$75,000-$100,000	544	5.04%	$46,917,372	1.51%	$1,718,498	9.97%
$100,000-$200,000	469	4.35%	$62,854,026	2.02%	$1,923,259	11.15%
Over $200,001	569	5.27%	$2,793,949,309	89.82%	$5,762,411	33.42%
Total	**10789**	**100.00%**	**$3,110,771,998**	**100.00%**	**$17,242,847**	**100.00%**

CORPORATE INCOME TAX BY INCOME BRACKET TABLE

2-Digit NAICS	2016 Industries	Zero or Less Taxable Income		Taxable Income Less Than $500K		Taxable Income Between $500K & $1000K		Taxable Income over $1000K	
		Taxpayers	Tax Paid	Taxpayers	Tax Paid	Taxpayers	Tax Paid	Taxpayers	Tax Paid
11	Agriculture, Fishery and Hunting	2,509	$4,263	156	$359,829	7	$274,699	5	$575,534
21	Oil and Gas and Other Mining	4,560	$24,328	181	$369,624	4	$155,522	13	$9,262,029
22	Utilities	224	$0	30	$52,875	1	$26,634	1	$3,435,964
23	Construction	6,037	$2,675	474	$1,134,743	11	$504,141	14	$2,140,578
31-33	Manufacturing	2,681	$25,688	700	$2,631,207	42	$1,905,238	47	$47,097,990
42	Wholesale Trade	2,050	$2,390	567	$1,971,249	24	$1,042,974	24	$4,028,060
44-45	Retail Trade	4,112	$31,020	451	$1,683,034	21	$920,354	42	$26,344,138
48-49	Transportation & Warehousing	1,888	$5,763	235	$554,596	5	$227,788	13	$14,984,743
51	Information	1,306	$347	187	$542,128	8	$356,491	19	$11,385,591
52	Finance & Insurance	8,314	$224,149	594	$1,360,337	20	$641,825	41	$14,396,476
53	Real Estate& Rental & Leasing	15,281	$31,567	519	$1,062,976	4	$198,252	11	$2,315,407
54	Professional, Scientific & Technical	8,385	$47,066	904	$1,967,241	19	$810,700	13	$2,635,314
55	Management of Companies & Enterprises	1,623	$167,998	324	$1,414,779	22	$1,140,707	38	$26,245,620
56	Admin & Support & Waste Mgt Remediation	1,882	$4,961	271	$571,664	4	$156,701	3	$1,255,968
61	Educational Services	379	$152	36	$141,270	2	$78,854		
62	Health Care & Social Assistance	3,566	$7,080	168	$460,959	3	$148,366	10	$1,336,042
71	Arts, Entertainment, & Recreation	1,351	$1,442	71	$93,325	1	$57,761	1	$3,012
72	Accommodation & Food Service	2,392	$2,685	168	$650,114	8	$372,061	9	$1,198,915
81	Other Services except Public Administration	2,575	$12,899	197	$369,617	3	$151,835	1	$156,005

Note: Only businesses that reported a valid NAICS codes are included in the chart above.

GROSS RECEIPTS TAX AVERAGE RATE

TRD utilizes the concept of an average actual gross receipts tax rate when estimating the cost of a tax expenditure as measured in terms of gross receipts tax forgone. In order to obtain the average actual gross receipts in FY18 of 7.15%, the gross tax amount as reported through the RP-500 monthly report for all industries within all cities and counties, is divided by the amount of matched taxable gross receipts as reported for the general fund. In this case, matched taxable gross receipts represent a Combined Reporting System (CRS) tax return for gross receipts and the corresponding payment for those gross receipts has been matched for a particular taxpayer during the revenue accounting period.

The RP-500 is a monthly local government distribution report that provides the detail behind the distributions made to each municipality or county for the month in which the business activity took place. The RP-500 report breaks down the distributions into either the current activity month or all other months, which can be from late reporting or amendments. As an example, if Taxpayer A amends returns for six months in the reporting month of September it will affect the distribution made in October and would be reported under "Other Months" in the report. The result is that the RP-500 is not updated with the effects of taxpayer amendments on older returns. Instead, they are aggregated into the "Other Months" category.

TAX EXPENDITURES

The federal government defines tax expenditures as "those revenue losses attributable to provisions of the Federal tax laws which allow a special exclusion, exemption, or deduction from gross income or which provide a special credit, a preferential rate of tax, or a deferral of tax liability…."[11] In order to apply the concept to New Mexico laws, this report defines them as "deviations from a baseline tax system created by specific tax law provisions."[12] Tax expenditures may reflect an overarching statewide policy, such as to promote the general welfare of all citizens, or may reflect a specific purpose, such as to incentivize a certain type of consumer behavior, economic development, or job creation. The term "tax expenditures" reflects the perspective that foregoing revenue that would normally accrue to the state may be thought of as spending through the tax code.

With that definition in mind, not every credit, exemption, deduction, or rate differential constitutes a tax expenditure. Certain credits, exemptions and deductions are not considered tax expenditures due to: (1) constitutional prohibition (2) Federal pre-emption; (3) comity between governments; (4) avoiding double-taxation, and (5) tax base-defining.

The questions are: do different tax structures constitute "tax expenditures"? If so, what is the baseline from which they are deviating?

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[11] 2 USC § 622

[12] *2013 Tax Expenditure Report*

These questions are not always easily answered because taxing jurisdictions tax different activities in different ways and for different desired outcomes. Likewise, if a tax structure taxes different activities or products differently without establishing a base tax rate, we do not treat these rate differentials as tax expenditures. If, however, a tax structure has a base tax rate and there are instances in which an activity or product is taxed at a different rate, we treat these as tax expenditures.

Reasonable minds with a shared understanding of these definitions may disagree on specific tax expenditure examples. This Report appeals to generally accepted standards for most deviations, and includes a discussion of the rationale for each so the reader may form their own judgement. Similarly, the Report conforms to generally accepted standards for examples of deviations that are not tax expenditures in that section.

Finally, the Report includes a list of provisions on which consensus is lacking. This section is provided to ensure transparency and consistency in reporting. The Report includes the statutory basis, the intended purpose, an evaluation, any recommendations, and the fiscal impact or estimated fiscal impact for each tax expenditure.

While not mandated by the Executive Order, the Report also includes both a reliability factor, and a brief history of each statute, to help the reader understand how the statute has evolved, as well as a summary of the provision as it exists at the present time. The description of each expenditure shows which of the five categories of purposes (citizen benefit, economic development, etc.) to which the expenditure belongs. Many sections have been amended several times so the year of amendments is noted. For amendments that have a direct impact on the deviation being discussed, the Report summarizes the substance of the change.

In total, there are 123 tax expenditures, 101 provisions that are not tax expenditures, and 23 activities in which consensus is lacking.

NOTES ABOUT TYPES OF TAX EXPENDITURES

EXEMPTIONS AND DEDUCTIONS

In terms of the practical effect on tax liability, there is little difference between an "exemption" and a "deduction", however, there are conceptual administrative differences between the two. At a conceptual or definitional level, an "exemption" is a statutory means of freeing a taxpayer from a duty, liability, or requirement. New Mexico tax exemptions come in several forms: broad exemptions for certain types of taxpayers from a tax program; insurance companies are exempt from corporate income tax if they pay New Mexico premium taxes; exemptions for certain types of transactions; and exemptions for certain amounts of income, revenue, or gross receipts. In most instances, exemptions free taxpayers of a reporting obligation with respect to the exempt entity, transactions, or amounts. In short, unless specifically required by statute or instruction, exemptions are not reported.

A tax deduction is a statutory mechanism that decreases a taxpayer's liability by reducing the amount of the taxpayer's income, revenue, or gross receipts that is subject to tax. Like exemptions, deductions can apply to certain types of entities, to transactions, or to amounts of income, revenue, or gross receipts. Unlike exemptions, deductions do not typically free taxpayers of reporting obligations. Rather, taxpayers that are entitled to deductions typically must file returns under the particular tax program to which the deduction pertains, identify the amount of the tax base before the deduction, and then reduce this tax base by the amount of the deduction. In addition, many deductions under the GRT program require the taxpayer to obtain nontaxable transaction certificates to establish entitlement to the deduction.

As noted above, many deductions and exemptions in New Mexico statutes are not tax expenditures.

CREDITS

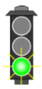
A tax credit is a statutory mechanism which allows taxpayers that meet the qualifications for obtaining a credit to subtract the amount of the credit from the total tax liability they owe the State. Tax credits can be granted in recognition of taxes already paid or to encourage behaviors like investment or parenting. Most tax credits are reported on returns and are typically separately reported.

DIFFERENCE BETWEEN TAX CREDITS AND DEDUCTIONS

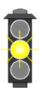
Tax deductions and tax credits can both reduce a taxpayer's tax liability, but they do it in different ways. Tax deductions reduce the taxpayer's tax base, taxable income for income taxes or receipts for GRT, which is then used to calculate the taxpayer's liability. Additionally, deductions typically do not reduce taxable income below zero. In contrast, tax credits do not directly reduce a person's tax base; rather, they are dollar for dollar credit amounts that offset or reduce a taxpayer's liability. In contrast to deductions, credits that exceed liability are sometimes allowed to be carried forward to the taxpayer's next reporting period, or, in more limited instances, are refundable, i.e. the taxpayer is paid any amount of credit that exceeds their tax liability.

NOTES ABOUT THE DATA

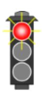
As with the 2017 *Tax Expenditure Report*, this report continues to qualify the expenditure amounts with Reliability Factors, which are an effort to help the reader understand the methodology for determining the fiscal impact of the tax expenditure. We stress that the fiscal impact of an expenditure needs to be read in conjunction with that expenditure's reliability factor. The Reliability Factor is a scale of 1-4 as follows:



1: The most reliable information comes directly from taxpayer-reported data, as contained in GenTax (GenTax is the integrated tax processing software used by TRD to record New Mexico's multiple tax programs). It requires no additional estimation or manipulation with one exception; instances where the GRT actual average rate is used to estimate the forgone tax instead of using the known rates in the different jurisdictions in the state. For reasons described in the discussion under "Gross Receipts Tax," this report has reduced the level of reliability of data reported under special deduction codes.



2: Estimated from taxpayer-reported data as summarized in GenTax reports (e.g. RP-80, RP-500). For example, if a GRT tax expenditure is industry-specific, an estimate can be prepared using data on the industry based on North American Industry Classification System ("NAICS") codes.



3: Estimated using national data and extrapolating to New Mexico.

4: The least reliable data. Estimates represent the economists' best estimate about the value of a tax expenditure. Due to limited data for analysis, these estimates are frequently rounded up to the nearest hundred-thousand or million dollars.

In addition, a limited number of expenditures have unknown reliability, because there is no data available to make even an estimate of the amount. This is reflected in the table below showing the number of expenditures for each Reliability Factor.

Reliability Factor	Description	Number of Expenditures
1	Most reliable. No estimation	67
2	Estimated from GenTax data	15
3	Estimated from national data	15
4	Least reliable. Estimated from limited data	11
Unknown	No data available	15

Readers should understand that taxpayers have the opportunity to amend their tax returns for up to three years, plus the current year. Amended returns often impact expenditure amounts. TRD decided that current data is more valuable than historically-consistent data. Therefore, when comparing this year's Tax Expenditure Report to prior versions, the reader should expect to see some changes to prior years. For example, the amount of a particular expenditure for FY2015 may be different in the *2018 Tax Expenditure Report* than it was in the *2017 Tax Expenditure Report*. Amended returns comprise a significant, but not the sole reason, for these variations. Other sources of the variation may include late filings by taxpayers or improvements to TRD methodologies for quantifying certain expenditures.

New Mexico, like many states, defines a year differently for different tax structures. For instance, the GRT tax year corresponds to the State's fiscal year (July 1-June 30) while the income tax programs use a calendar year (January 1-December 31). This presents a challenge for organizing and reporting the data. Because the tax filing deadline for personal income tax is in April of the following year and the money accompanying those returns goes to the General Fund during the following fiscal year, we present the tax year data as fiscal year (i.e., PIT year 2016 is presented as FY2017 because PIT year 2016 returns are due in April of 2017 which is in the 4th quarter of FY2016). In addition, many corporations delay their filings using the no-restriction extension to September of any given year. PIT data for tax year 2017 and CIT data from tax year 2016 are the most complete datasets available at the time of publication of this report.

Finally, our goal is to provide data for each tax program affected by a tax expenditure. However, we are limited both by federal and state law from disclosing data which might reveal a taxpayer's identity. Therefore, when there are fewer than three taxpayers reporting a deduction, exemption, or credit against a particular tax, TRD combined the data for all of the tax programs affected by those deductions, exemptions, and credits. When combining the data is not enough, we redacted it. Further, as a visual cue throughout this document, the reader will find a number of blank entries in tables where the data are redacted.

CATEGORIZING EXPENDITURES

This *2018 Tax Expenditure Report* divides tax expenditures into the following five major categories according to their purpose: citizen benefits; economic development; environment, conservation, and renewable energy; health care; and, specialized industry incentives. The grouping of expenditures into categories is not an indication of whether TRD believes any particular expenditure or category of expenditures is good or bad, as a matter of policy. Rather, categorizing expenditures affords policy makers a broader view of New Mexico's tax expenditures that cannot be gleaned from reviewing each individual expenditure in isolation.

As with the determination of whether a particular deduction, credit, or exemption constitutes a tax expenditure, TRD acknowledges there that can be legitimate differences of opinion as to whether a particular expenditure belongs in one category or another. Certain expenditures may cross multiple categories. For example, an expenditure listed in the highly specialized industry category might also serve economic development purposes. However, to avoid double-counting, each expenditure is included in only one category.

The outline below sets forth expenditures included in each category. The full list can be found in Appendix B.

1. **Citizen Benefits**
   a. Expenditures that are available to, or that benefit, all individual taxpayers who engage in certain activities, such as the expenditures for food and medical services and prescription drug deductions from GRT and contributions to the education deduction from PIT.
   b. Expenditures designed to alleviate burdens for a specific subset of the population, such as veterans, active military, low-income, or the elderly.
   c. Expenditures that lessen the demand for government services, such as certain nonprofit expenditures.

2. **Economic Development**
   a. Expenditures designed to stimulate investment in New Mexico, such as the angel investment PIT credit.
   b. Job creation expenditures, such as the high-wage and rural job tax credits.
   c. Expenditures designed to attract industries, such as the film production credit.

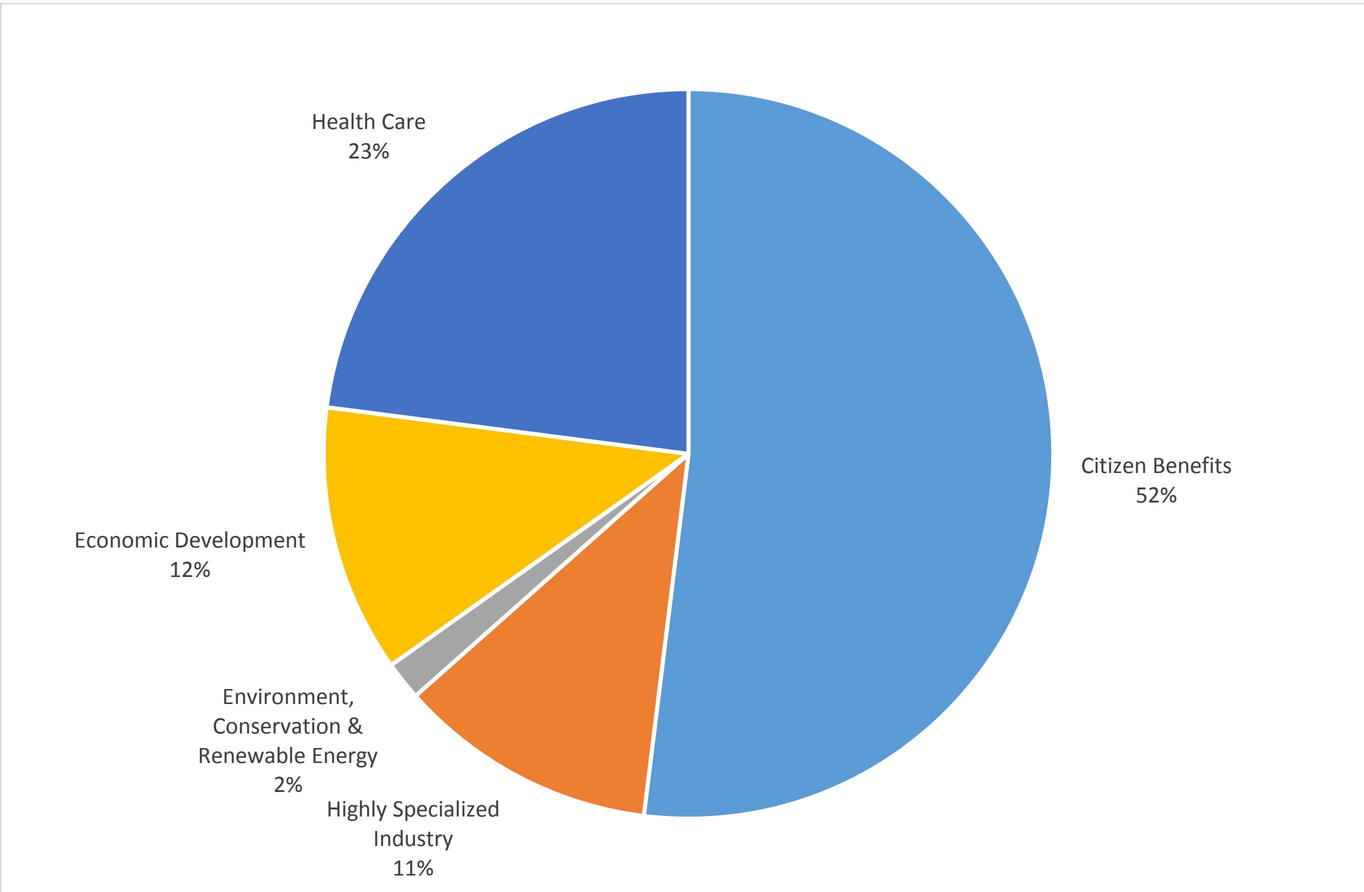
3. **Environment, Conservation, and Renewable energy**
   a. Expenditures designed for environmental health, to promote conservation, and to promote renewable energy technologies and usage, such as the advanced energy credit (renewables and carbon sequestration), biofuels incentives, renewable energy production tax credit, and PIT/CIT credit for land conservation contributions.

4. **Health Care**
   Expenditures designed to increase accessibility to and lower the costs of health care. Examples include the health care practitioners GRT deduction, hospital construction deduction, and rural health care practitioners PIT credit.

5. Highly Specialized Industries

Expenditures available to specific or highly specialized industries, such as agriculture, uranium and aerospace.

The chart below reflects the most recent data available for all tax expenditures. The data presented is based on the un-redacted cost of the tax expenditures.



ADVANCED ENERGY
GRT AND COMPENSATING TAX DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from selling or leasing tangible personal property or services, such as design, construction, equipment, and equipment installation to a person that holds an interest in a qualified generating facility are deductible if the interest holder in the facility delivers a nontaxable transaction certificate to the seller.

Similarly, the value of eligible generation plant costs from the sale or lease of tangible personal property to a person who holds an interest in a qualified generating facility may be deducted in computing the compensating tax.

The aggregate amount of all advanced energy tax deductions that may be claimed with respect to a qualified generating facility shall not exceed sixty million dollars ($60,000,000). The NMENV certifies the qualified generating facility.

Statutory Basis: 7-9-114 NMSA 1978

Intended Purpose: To encourage the construction and development of qualified generating facilities in New Mexico and to sequester or control carbon dioxide emissions.

History: Originally enacted in 2010 to allow a deduction for the sale of tangible personal property or services that are eligible generation plant costs.

The 2011 amendment, allows the deduction of receipts from the leasing of the tangible personal property.

Evaluation: EDD does not currently track the number of temporary construction jobs or economic-based jobs related to the deduction. However, according to the NMENV, while there are few permanent jobs associated with the deduction, the number of temporary construction jobs from the projects certified by the NMENV is notable.

Recommendations: Consider repealing. This deduction works in tandem with the advanced energy credit, and neither are widely used.

Reliability Factor: **1 -** This is separately reported. No estimation is required.

Fiscal Impact: None to date.

ADVANCED ENERGY
CREDIT AGAINST GRT, COMPENSATING TAX, WITHHOLDING TAX, PIT, OR CIT

Category:	Economic Development, Industry-focused Stimulus
Brief Description:	A taxpayer who holds an ownership interest in a qualified generating facility located in New Mexico may claim an advanced energy credit against GRT, compensating tax or withholding tax. The allowable credit is 6% of the costs of designing and constructing the qualified generating facility. If the credit amount exceeds the taxpayer's GRT, compensating tax and withholding tax liability, the excess may be claimed against the taxpayer's New Mexico PIT or CIT return. A qualified generating facility is one that begins construction before December 31, 2015 and is: (1) solar thermal electric, (2) solar photovoltaic electric, (3) geothermal electric, (4) a recycled energy project, or (5) new or repowered coal-based electric. The aggregate amount of all advanced energy tax credits that may be claimed with respect to a single qualified generating facility may not exceed sixty million dollars ($60,000,000). The credit is not refundable but may be carried forward for up to ten years.
Statutory Basis:	7-2-18.25, 7-2A-25, and 7-9G-2 NMSA 1978
Intended Purpose:	To incentivize investment in energy generation facilities by mitigating all or a portion of the GRT, compensating tax liability, withholding tax, PIT, and CIT.
History:	Originally enacted in 2007 as a credit against GRT, compensating tax, and withholding tax. Amended in 2009 to allow credit amounts that exceeds the claimant's GRT, compensating tax and withholding tax liability to claim the excess credit against PIT and CIT; made the GRT, compensating tax, and withholding tax credit conform to the new credits.
Evaluation:	The credit was amended in 2009 to include income tax, but it is not used. If the income tax taxpayers were not aggregated into the total, the expenditure information would be redacted.

Recommendations: This credit has not been widely used, and thus, has not realized its intended purpose. If a comprehensive energy-related tax program is being considered, then this credit should be repealed. If no comprehensive program is being developed, then at a minimum, consider allowing the credit to expire.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

NOTE: Some of the data have been redacted due to fewer than 3 taxpayers claiming the credit. TY2016-18 has been redacted.

Fiscal Impact:

Credit, Advanced Energy	Tax Year (Calendar)	2014	2015	2016	2017	2018
	Claims	5	7	<3	<3	<3
	Expenditure	$407,600	$258,909	-	-	-

AFFORDABLE HOUSING
CREDIT AGAINST MODIFIED COMBINED TAX, PIT, OR CIT

Category: Citizen Benefits

Brief Description: A tax credit can be applied against GRT (less local option gross receipts taxes), compensating tax, withholding, PIT, CIT, E911, and other CRS tax liabilities for investments in affordable housing projects equal to 50% of the amount of cash invested or the fair market value of the land, buildings, materials, or services relating to such projects. This tax expenditure is available to taxpayers receiving a tax credit voucher issued by the New Mexico Mortgage Finance Authority (MFA).

Under the MFA's program, the tax credit voucher is administered based on donations made to affordable housing projects and the Affordable Housing Charitable Trust. The maximum amount for this expenditure is calculated annually by multiplying a base rate, adjusted for inflation, and the state's population. For tax year 2016, the ceiling was approximately $4.4 million. Donations may include land, buildings, materials, cash or services. Cash equivalents such as store credit or waived invoices are considered a cash donation. Donations received by the project sponsor in exchange for tax credits may be used to fund the acquisition, substantial rehabilitation, and/or new construction of affordable housing projects throughout the state, including down payment and closing cost assistance for acquisition of affordable single-family housing. No minimum or maximum dollar limits are placed on donations made directly to the Affordable Housing Charitable Trust.

The credit is not refundable but may be carried forward for up to five years.

Statutory Basis: 7-9I-5 NMSA 1978

Intended Purpose: To incentivize the construction of affordable housing projects.

History: Originally enacted in 2005.

An amendment to the Affordable Housing Tax Credit Act in 2010 expanded where eligible "affordable housing projects" can be located from counties with a population of less than 100,000 to all counties and to include materials as an allowable investment.

Evaluation: MFA reports this program is highly effective in leveraging donations for affordable housing development organizations like Habitat for Humanity. TRD believes the credit is an important instrument to promote investment in low-income housing projects.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Affordable Housing Credit against modified combined tax, PIT or CIT	Fiscal Year	2014	2015	2016	2017	2018
	Claims	32	45	22	8	10
	Expenditure (thousands)	$373	$654	$141	$105	$242

AGRICULTURAL BIOMASS CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A dairy or feedlot owner is eligible for a credit of $5 for each wet ton of agricultural biomass that is transported from the owner's dairy or feedlot to a facility that uses agricultural biomass to generate electricity or make fuels for commercial use. The aggregate annual combined total of all agricultural biomass PIT and CIT credits is capped at $5,000,000.

As used in this section:

(1) "agricultural biomass" means wet manure meeting specifications established by EMNRD from either a dairy or feedlot commercial operation;

(2) "biocrude" means a non-fossil form of energy that can be transported and refined using existing petroleum refining facilities and that is made from biologically derived feedstocks and other agricultural biomass;

(3) "feedlot" means an operation that fattens livestock for market; and

(4) "dairy" means a facility that raises livestock for milk production.

The credit is not refundable but may be carried forward for up to four years and transferred to another taxpayer. The credit is applicable for taxable years after January 1, 2011 and ending prior to January 1, 2020.

Statutory Basis: 7-2-18.26 and 7-2A-26 NMSA 1978

Intended Purpose: To incentivize the sale and use of agricultural biomass as a fuel.

History: Originally enacted in 2010.

Evaluation: EMNRD has begun to see applications for this tax credit and has issued approved certificates. Due to credit transferability, TRD has received numerous inquiries regarding this credit from both in-state and out-of-state tax credit brokers. The certificates issued have all been transferred. High levels of transfers may indicate that the incentive is not properly scoped to the taxpayers most directly involved in the desirable behavior. While certificates have been issued, to date none have been claimed against tax liability.

Recommendations: Continue to monitor and evaluate credit utilization to determine whether the incentive is effective in stimulating the desired outcome. Monitor transfers to determine if the credit has the proper scope. If a comprehensive energy-related tax program is proposed, then repeal of this credit should be considered. Amending the statute to clarify procedures and deadlines, and specifically to prescribe the tax year in which the credit should be claimed,

might also be considered. TRD has addressed this issue through Bulletin B-300.16, which indicates that the credit must be claimed for the tax year stated in the EMNRD certificate of eligibility. EMNRD has also partially addressed this issue through its regulations. Tying the delivery of the biomass to a tax year prevents unintended credit "stacking" and ensures smooth annual administration and awarding of the credit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None to date.

AGRICULTURAL WATER CONSERVATION EXPENSES CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: CIT and PIT credits are available for agricultural water conservation expenses incurred by the taxpayer for specific improvements in irrigation systems or water management methods. The expenses must comply with a water conservation plan approved by the local soil and water conservation district in which the improvement is located. The improvements must be primarily designed to substantially conserve water on the land in New Mexico that is owned or leased by the taxpayer and used to produce agricultural products, harvest or grow trees, or sustain livestock.

The credit amount is 35% of eligible expenses incurred in calendar year 2008 and 50% of expenses in subsequent years through December 31, 2012 when the credit expired.

The credit is not refundable but may be carried forward for up to five years. Carryforward claims can continue to be made through tax year 2017.

Statutory Basis: 7-2-18.20 and 7-2A-22 NMSA 1978

Intended Purpose: To incentivize responsible water management and to offset the cost of conservation-driven irrigation improvements incurred by the individual farmer or rancher.

History: Originally enacted in 2007 with a delayed repeal of January 1, 2013.

Evaluation: The number of claims was relatively high early in the lifespan of this credit and has reduced over time. A plausible explanation is that the creation of the credit stimulated the necessary investment in irrigation systems and water management methods. Furthermore, this credit is not refundable which means that the taxpayer must have enough liability over six years to offset the credit in order to get the full benefit of the credit. Once these early initial investments were made, there were significantly fewer farmers with the requisite liability to claim the credit who needed to make this investment.

Recommendations: Evaluate the status and adequacy of agricultural water conservation in the State to determine whether a new or revised incentive should be considered or implemented.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

NOTE: Some of the data have been redacted due to fewer than 3 taxpayers claiming the credit. FY2015-17 has been redacted.

Fiscal Impact:

Agricultural Water Conservation Expenses Credit against PIT and CIT	Fiscal Year	2013	2014	2015	2016	2017
	Claims	8	4	< 3	< 3	< 3
	Expenditure (thousands)	$27	$7	-	-	-

AIRCRAFT SALES OR SERVICES GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from selling, maintaining, refurbishing, remodeling or otherwise modifying a commercial or military carrier over ten thousand pounds gross landing weight are deductible from gross receipts.

Statutory Basis: 7-9-62.1 NMSA 1978

Intended Purpose: To incentivize a more robust commercial and military aircraft industry in New Mexico.

History: Originally enacted in 2000 and amended in 2005.

Amended in 2014 to expand the deduction by adding the sale of an aircraft over 10,000 pounds to the activities that are deductible.

Evaluation: Members of the impacted industry tout the potential for significant new business opened up by the addition of aircraft sales to the deduction. This deduction would likely benefit a very narrow section of the economy and have little if no beneficial impact to state revenues.

Recommendations: None.

Reliability Factor: 2 – This deduction is separately reported.

Fiscal Impact: Has been redacted due to fewer than 3 taxpayers taking the deduction.

ALTERNATIVE ENERGY PRODUCT MANUFACTURERS CREDIT AGAINST MODIFIED COMBINED TAX

Category: Economic Development

Brief Description: Manufacturers of certain alternative energy products who hire at least one new employee for every $500,000 in qualified expenditures (up to $30 million) and for every $1,000,000 in qualified expenditures (over $30 million) may receive a tax credit not to exceed 5% of qualified expenditures for purchase of manufacturing equipment used in the manufacturing operation.

The credit is not refundable but may be carried forward for up to five years.

Statutory Basis: 7-9J-1 *et seq.* NMSA 1978

Intended Purpose: Presumably to encourage hiring and investment in the alternative energy production sector.

History: Originally enacted in 2007 and amended in 2011.

The 2011 amendment included products of single cell photosynthetic organisms as eligible alternative energy products for taxable years 2011 through 2019.

Evaluation: This credit is underused. According to the Solar Energy Industries Association's website, there are currently more than 100 solar companies at work throughout the value chain in New Mexico, these companies provide a wide variety of solar products and services ranging from solar system installations to the manufacturing of components used in photovoltaic panels 15 manufacturers, 10 manufacturing facilities, 50 contractor/installers, 3 project developers, 8 distributors, and 23 engaged in other solar activities including financing, engineering and legal support. TRD believes the employment eligibility investment threshold requirements may be too high for this credit to be useful to small manufacturers. Additionally, manufacturers that qualify for this credit may also qualify for the investment tax credit, which has a higher credit rate, better carryforward period, and credit refund provisions.

Recommendations: There is potential overlap with the investment tax credit (ITC). Consider:

(1) Repealing this credit and subsuming it in the ITC; or

(2) Making the ITC and this credit mutually exclusive and lower the investment and employment threshold requirements for the alternative energy product manufacturers' tax credit. Doing so would allow large manufacturers, even those that produce alternative energy products, to use the ITC. Yet, it would open this incentive to smaller alternative energy product producers. TRD will continue to monitor credit utilization,

especially with respect to the single sales factor phase-in for manufacturers, as that election may stimulate expansion or larger investment in alternative energy manufacturing in New Mexico. As there are several credits and deductions for related expenses, a comprehensive review of the relationships and interactions between these related expenditures could explain why some of them are underused.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: Has been redacted due to fewer than 3 taxpayers taking the deduction.

ANGEL INVESTMENT CREDIT AGAINST PIT

Category: Economic Development

Brief Description: A taxpayer who files a New Mexico PIT return and makes a qualified investment may claim a credit in an amount not to exceed 25% of not more than $100,000 of the qualified investment ($25,000). For the investment to qualify it must be made in a business that maintains its principal place of business in New Mexico and engages in high-technology research or manufacturing activities in New Mexico.

Prior to January 1, 2015, the cap per statute did not exceed $750,000. For credits issued during this time, unused credit may be carried forward for three consecutive years.

For tax years beginning on or after January 1, 2015 until January 1, 2025, the credit amount per investment may be $62,500 and the taxpayer may make five qualified investments per tax year. The aggregate annual cap is increased to $2,000,000. For credits issued after the legislative change, unused credit may be carried forward for five consecutive years.

Statutory Basis: 7-2-18.17 NMSA 1978

Intended Purpose: To incentivize the investment in qualified research and/or manufacturing activities in New Mexico by angel investors.

History: Originally enacted in 2007 with a delayed repeal date of January 1, 2013. The credit was amended in 2012 and 2015.

The 2012 amendment eliminated the delayed repeal and extended the date before which an investment must be made to qualify for the credit. The 2015 amendment changed the qualified investment amount, relaxed the limits on the number of investments, increased the annual cap and extended the carry forward period.

Evaluation: This credit is being used as intended.

Recommendations: There is tension in the statutory language that should be corrected through clarifying legislation. Subsection C prescribes that the claim must be made within one year of making the investment. Yet, Subsection E contemplates and allows a queue that may render the one-year claim limitation impracticable. To date, this has not been an issue because the claims have not approached the statutory limit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Angel Investment Credit against PIT	Fiscal Year	2013	2014	2015	2016	2017
	Claims	47	66	83	93	87
	Expenditure (thousands)	$340	$381	$511	$615	$439

APPORTIONMENT
ELECTION OF CIT FOR HEADQUARTERS

Category: Economic Development, Economic Investment

Brief Description: A taxpayer whose principal business activity is a headquarters operation may elect to have its business income apportioned to New Mexico by using a single sales factor.

Statutory Basis: 7-4-10(C) NMSA 1978

Intended Purpose: To encourage companies to locate their headquarters or center of operations for their managerial activities in New Mexico, thereby increasing employment and economic activity within the state.

History: Originally enacted in 2015 Special Legislative Session.

Evaluation: The special election was enacted for tax year 2015, but claiming this special election has restrictions. A taxpayer that makes a special election shall not terminate the election until the special election has been used for at least three consecutive taxable years. Taxpayers that elected a manufacturing special election beginning in tax year 2014 are not eligible to change their election until tax year 2017.

Recommendations: (1) Consider clarifying the definition of "headquarters." TRD receives numerous questions based on the language of the current definitions.

(2) Consider either a shift to market-based sourcing for all taxpayers or, at minimum, for taxpayers making this election. The shift to a single sales factor for service providers that locate headquarters here and perform a majority of the services from locations in New Mexico will not create the desired incentive because those companies will have a very high sales factor in New Mexico under the income-producing activity/cost of performance test currently prescribed by Section 7-4-18 NMSA 1978.

Reliability Factor: Insufficient data is currently collected to calculate prior apportionment percentages for taxpayers making this election.

Fiscal Impact: Unknown.

APPORTIONMENT
ELECTION OF CIT FOR MANUFACTURERS

Category: Economic Development

Brief Description: A taxpayer whose principal business activity is manufacturing may elect to have its business income apportioned to New Mexico by using a formula which puts a greater emphasis on the taxpayer's sales than on the taxpayer's property or payroll. The transition from allowing a taxpayer to use a double-weighted sales factor formula (2014) to allowing a taxpayer to use a fully phased-in single sales factor formula will be complete for tax years beginning on or after January 1, 2018. For tax year 2014, the formula prescribed a 50% sales factor. For tax year 2015 the formula prescribed a 60% sales factor. Tax year 2016 prescribed a 70% sales factor. The formulas for tax years 2017 and 2018 will prescribe an 80% and 100% sales factor, respectively.

Statutory Basis: 7-4-10(B) NMSA 1978

Intended Purpose: As enacted in 1993, the purpose for having the double-weighted sales factor formula election for manufacturers was to encourage investment and employment in this state by manufacturers who do not anticipate substantial sales revenue within this state.

History: Originally enacted in 1993 and amended in 2001, 2002, 2009, 2013, and 2015.

The 2013 amendment provided a phase-in over five years of the use of a single sales factor by taxpayers whose principal business activity is manufacturing.

Evaluation: The single sales factor is an incentive for multi-state firms whose majority sales are outside New Mexico. These firms gain the most from this election. For domestic New Mexico companies, the single sales factor will reduce their income tax liability to the extent they have sales outside New Mexico.

Recommendations: None.

Reliability Factor: 2 - This election is reported. Some estimation is required. Differences between annual expenditure reports are attributed to taxpayers filing late or amended returns.

Fiscal Impact:

Special Election, Manufacturer's Apportionment Formula	Tax Year (Calendar)	2012	2013	2014	2015	2016	2017
	Claims	17	19	28	28	52	41
	Expenditure (thousands)	$1,618	$1,780	$13,373	$12,737	$11,383	$35,787

ARMED FORCES SALARIES EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: A salary paid by the United States government to a taxpayer for active duty service in the armed forces of the United States is exempt from PIT.

Statutory Basis: 7-2-5.11 NMSA 1978

Intended Purpose: To provide a tax benefit for our armed forces personnel.

History: Originally enacted in 2007.

Evaluation: This is a discretionary incentive recognizing our armed forces personnel.

Recommendations: None.

Reliability Factor: 1 – This exemption is separately reported. No estimation is required.

Fiscal Impact:

Armed Forces Salaries Exemption from PIT	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	11,273	11,386	12,304	13,086	12,581
	Expenditure (thousands)	$7,302	$7,754	$8,197	$9,184	$9,034

BACK-TO-SCHOOL TAX-FREE WEEKEND GRT DEDUCTION

Category: Citizen Benefits

Brief Description: Receipts from retail sales of specified tangible personal property if the sale occurs during the first full weekend (Friday through Sunday) in August are deductible from gross receipts. The property specified by this statute includes certain clothing valued under $100, computers valued under $1,000, computer accessories valued under $500, and school supplies.

Statutory Basis: 7-9-95 NMSA 1978

Intended Purpose: To reduce the cost of school supplies and school clothes.

History: Originally enacted in 2005.

Evaluation: New Mexico is one of 16 states that will have a form of a tax-free holiday in 2017, a decrease from 2010 when 19 states held tax-free holidays. Other arguments for a tax-free holiday, such as an economic boost, have failed to be demonstrated. While no known direct evaluation of this deduction has been performed, the large revenue loss to small benefit gain to low-income consumers would also hold true in New Mexico.

Recommendations: None.

Reliability Factor: 4 - No direct data exists to estimate this deduction. TRD requires taxpayers who take advantage of this deduction to separately report the deductible amount, but there is no statutory authority to enforce the reporting requirement. The estimate is based on a percentage of August 2018 retail sales gross receipts identified for specific NAICS codes as reported by taxpayers. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Back-to-School Tax-Free Weekend GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$3,400	$3,500	$3,300	$4,200	$4,300

BIODIESEL BLENDING FACILITY TAX
THIRTY PERCENT CREDIT AGAINST GRT AND COMPENSATING TAX

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who is a rack operator as defined in the Special Fuels Supplier Tax Act, and who owns and installs biodiesel blending equipment at its facility to produce blended biodiesel fuel may claim a GRT or compensating tax credit. The credit is 30% of the purchase and installation cost of equipment.

Biodiesel is a renewable and biodegradable fuel derived from agricultural plant oils or animal fat. Blended biodiesel fuel is a diesel fuel that contains at least 2% biodiesel.

The credit is not refundable but may be carried forward for up to four years.

Statutory Basis: 7-9-79.2 NMSA 1978

Intended Purpose: To incentivize establishing or the expansion of a facility that produces blended biodiesel fuel.

History: Originally enacted in 2007.

Evaluation: This credit has not been claimed. According to EMNRD's Energy Conservation and Management Division, no applications for this credit were submitted for FY2017

Recommendations: None.

Reliability Factor: 1 - This credit is required to be separately reported. If claimed in the future, no estimation will be required.

Fiscal Impact: No taxpayers have claimed this credit.

BIOMASS-RELATED EQUIPMENT AND BIOMASS MATERIALS DEDUCTION FROM COMPENSATING TAX

Category: Environment, Conservation & Renewable Energy

Brief Description: The value of a biomass boiler, gasifier, furnace, turbine-generator, storage facility, feedstock processing or drying equipment, feedstock trailer or interconnection transformer, and the value of biomass materials used for processing into bio power, biofuels or bio-based products is deductible when computing the compensating tax due.

Statutory Basis: 7-9-98 NMSA 1978

Intended Purpose: To incentivize the construction of biomass power generation and use of biomass materials.

History: Originally enacted in 2005.

Evaluation: According to EMNRD, several bioenergy projects are currently underway in the state and typically involve partnerships between federal agencies, local governments, New Mexico higher education institutions, and foreign entities. These include Albuquerque's Southside Water Reclamation Plant and the Las Cruces Waste Water Treatment Plant. As these are run by local governments, they are unaffected by the deduction.

EMNRD reports a very limited number of *private* bioenergy projects undergoing construction in the last few years, with only a single project operating and another ceasing construction after funding difficulties. The conclusion therefore is that the deduction is insufficient to incentivize new private projects.

Note that this deduction can only be taken against compensating tax, which could incentivize firms to purchase equipment out of state.

Recommendations: For consistency, a GRT deduction for in-state sales of the described equipment would have to be included.

Reliability Factor: 4 - The limited number of private bioenergy projects that have undergone construction over the last few years were estimated from publicly available sources of the size of the projects. A two-year construction timeframe was assumed on projects that continued, as well as assuming 50% of the project cost would involve purchasing equipment from out of state, and therefore be subject to compensating tax.

Typically, biomass projects are designed to take advantage of local feedstock, so the effect of the deduction for biomass materials is estimated at zero.

Fiscal Impact:

Biomass-Related Equipment and Biomass Materials Deduction from Compensating Tax	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$0	$250	$250	$250	$0

BLENDED BIODIESEL FUEL
CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who is liable for payment of the special fuel excise tax is eligible to claim a credit against PIT or CIT for each gallon of blended biodiesel fuel on which that person paid or would have paid the special fuel excise tax in the taxable year. This blended biodiesel fuel is a 3% mixture of biodiesel which is a different mixture from vegetable oil which is 99% biodiesel. The credit amount was phased down from 3 cents per gallon to 1 cent per gallon over the life of the incentive, which expired December 31, 2012.

The credit is not refundable but may be carried forward for up to five years.

Statutory Basis: 7-2-18.21 and 7-2A-23 NMSA 1978

Intended Purpose: To incentivize the establishment or expansion of a facility that produces blended biodiesel fuel.

History: Originally enacted in 2007 with an expiration of December 31, 2012.

Evaluation: The credit saw a decrease as the value of the credit reduced (from 2007-2010, the credit was $0.03 per gallon; in 2011, it was $0.02 per gallon; and in 2012, it was $0.01 per gallon). The credit is not available after December 31, 2012 and the only possibility for further expenditures from this credit would be due to the use of a carry forward or amended return.

Recommendations: Repeal. The credit has expired and the carry-forward period ended with tax year 2017.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None. The credit expired during tax year 2012 and the carry-forward expired at the end of 2017.

BORDER-ZONE TRADE-SUPPORT COMPANY GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: The receipts of a trade-support company are deductible from gross receipts if:

(1) the trade-support company first locates in New Mexico within twenty miles of a port of entry on New Mexico's border with Mexico on or after July 1, 2003 but before July 1, 2013; or they locate in a border-zone after July 1, 2016 but before January 1, 2021;

(2) the receipts are received by the company within a five-year period beginning on the date the trade-support company locates in New Mexico and the receipts are derived from its business activities and operations at its border zone location; and,

(3) the trade-support company employs at least two employees in New Mexico.

A "trade-support company" means a customs brokerage firm or a freight forwarder.

Statutory Basis: 7-9-56.3 NMSA 1978

Intended Purpose: To incentivize the location of trade-support companies to support and increase economic activities at the various ports of entry (Santa Teresa, Columbus, and Antelope Wells).

History: Originally enacted in 2003, amended in 2007 and 2015 to extend the credit and add reporting requirements.

Evaluation: The trade support sector as defined in this deduction is very small and focused. Even if fully used, it only applies to a small number of taxpayers.

Recommendations: None.

Reliability Factor: 2 – All gross receipts deductions for taxpayers classified as trade support companies per the RP-80 report are assumed to derive from this deduction. The trade support companies are in the following locations: Sunland Park, Anthony, and unincorporated areas of Luna, Dona Ana, and Hidalgo Counties. The deduction may be overestimated as the trade support classification does not match up perfectly to the definition of taxpayers who are eligible. Furthermore, companies could be eligible for additional deductions which would mean that not all amounts are attributable to this

deduction. The deductible amounts reported are multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Border-Zone Trade-Support Company GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$235	$453	$271	$264	$153

BUSES OPERATED BY RELIGIOUS AND NONPROFIT CHARITABLE ORGANIZATIONS
EXEMPTION FROM WDT

Category: Citizen Benefits

Brief Description: Use of the highways in New Mexico by buses operated by religious or nonprofit charitable organizations is exempt from the WDT.

Statutory Basis: 7-15A-5(C) NMSA 1978

Intended Purpose: To subsidize the activities of organizations the federal government has determined to be performing socially-beneficial activities.

History: Originally enacted in 1988.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 –The number of buses registered as nonprofit was collected from MVD. Exempt miles are not reported on any WDT form, so average miles traveled per school bus were calculated from national school sources. Weight was calculated as an average of weights between 26,000 and 30,000 pounds gross vehicle weight rating (GVWR), which most type C buses are.

Fiscal Impact:

Buses Operated by Religious and Nonprofit Charitable Organizations Exemption from WDT	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$69	$63	$60	$20	$23

BUSES USED FOR TRANSPORTATION OF AGRICULTURAL LABORERS EXEMPTION FROM WDT

Category: Highly Specialized Industry

Brief Description: Use of the highways in New Mexico by buses used exclusively for the transportation of agricultural laborers is exempt from the WDT.

Statutory Basis: 7-15A-5(B) NMSA 1978

Intended Purpose: To lower the cost of labor for agricultural producers.

History: Originally enacted in 1988.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 –The number of buses registered for agricultural use was collected from MVD. This number dropped significantly beginning in FY2017 and it is unknown why. Exempt miles are not reported on any WDT form, and no public source is available for miles traveled by agricultural buses. Therefore, average miles traveled per school bus was calculated from national school sources (school buses operate on a similar twice-a-day schedule). Weight was calculated as an average of weights between 26,000 and 30,000 pounds gross vehicle weight rating (GVWR), which most type C buses are.

Fiscal Impact:

Buses Used for Transportation of Agricultural Laborers Exemption from WDT	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$6	$6	$6	$0.3	$1.5

BUSINESS FACILITY REHABILITATION CREDIT AGAINST PIT AND CIT

Category: Economic Development

Brief Description: A taxpayer who owns a qualified business facility in an enterprise zone and restores, renovates, or rehabilitates it may receive a credit of 50% per project cost (up to $50,000) on PIT and CIT owed to New Mexico.

A "qualified business facility" is a building vacant for at least 24 months and intended to be put into use by a person in the manufacturing, distribution, or service industries. Cultural or historic properties do not qualify for this credit.

The credit is not refundable but may be carried forward for up to four years.

Statutory Basis: 7-2-18.4 and 7-2A-15 NMSA 1978

Intended Purpose: To stimulate the creation of new jobs and revitalize economically depressed areas within New Mexico enterprise zones.

History: Originally enacted in 1994.

Evaluation: The credit is not being used because most individuals do not have enough tax liability to apply the credit. Qualified individuals and corporations who take this credit are not eligible for the investment credit which provides a higher benefit. According to EDD, there are currently no enterprise zones completing the required annual reporting which indicates that the enterprise zones that were established when this credit was originally enacted have expired.

Recommendations: Repeal. There are no enterprise zones to establish eligibility.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None.

CAPITAL GAIN
DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed $1,000; or

(2) 50% of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed.

A taxpayer may not claim this deduction if the taxpayer pays federal income tax on a qualified diversifying business net capital gain, has claimed a credit against their PIT liability equal to a capital gain tax differential, and if the taxpayer allocates the qualified diversifying business net capital gain to New Mexico.

Statutory Basis: 7-2-34 NMSA 1978

Intended Purpose: The capital gain deductions exist to incentivize savings and investment. This deduction is meant to encourage taxpayers to put their income to productive use through investing, and to recruit individuals earning investment income to New Mexico.

History: Originally enacted in 1999 and amended in 2003. The 2013 amendment expanded the capital gains deduction simultaneously with the reduction in income tax rates.

Evaluation: Most of the financial benefit is realized by high earning individuals whose income is derived from investments. However, many New Mexicans regardless of income level will benefit from this deduction at some point. Any taxpayer who recognizes a capital gain during a tax year will reduce their tax liability in that year by using this incentive.

Recommendations: The deduction currently has no cap for an individual taxpayer and so, consequently, most of the financial benefit is realized by high-income taxpayers. Capping at taxpayer’s net capital gain income at $100,000 would reduce the amount of this expenditure without unduly harming most of the program’s beneficiaries.

Reliability Factor: 1 – The deduction amounts for each taxpayer claiming this deduction were computed, making this data more reliable than in past years, which used an average rate for all taxpayers. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Capital Gains Deduction	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	96,843	106,995	102,851	94,657	88,714
	Expenditure (thousands)	$32,641	$47,850	$40,165	$47,086	$29,264

CERTAIN DISABLED MILITARY VETERAN EXEMPTION FROM MVX

Category: Citizen Benefits

Brief Description: A person is exempt from the MVX if the person is a resident of New Mexico who served in the armed forces of the United States and who suffered, while serving in the armed forces or from a service-connected cause, the loss or complete and total loss of use of:

(1) one or both legs at or above the ankle; or

(2) one or both arms at or above the wrist.

Statutory Basis: 7-14-6(E) NMSA 1978

Intended Purpose: To ease the tax burden of individuals whose service in the armed forces resulted in disability.

History: Originally enacted in 1978 and amended in 1988, 1990, 19954, 2004, and 2007 to include Subsection E.

Evaluation: This tax expenditure meets its intended purpose of lowering the tax burden of disabled veterans. The estimated fiscal impact of this expenditure suggests that the exemption from the excise tax has had a positive effect on vehicle purchases.

Recommendations: None.

Reliability Factor: 3 - The number of disabled veterans in the State of New Mexico was obtained from the US Census Bureau, to only include those with at least disability rating to match the loss of limb usage as given in the statute. The national average prices of new and used vehicles were collected for each year and averaged together. Per the University of Michigan Transportation Research Institute, in 2011, 1 out of 19.7 drivers bought a vehicle, either new or used. The total number of disabled veterans with a sufficient disability rating was divided by 19.7 and then multiplied by the average price of a new and used vehicle. The resulting dollar amount was multiplied by the MVX rate of 3%.

Fiscal Impact:

Certain Disabled Military Veteran Exemption from MVX	**Fiscal Year**	2012	2013	2014	2015	2016	2017
	Expenditure (thousands)	$800	$830	$960	$1,050	$1,030	$1,220

CHILD CARE TO PREVENT INDIGENCY CREDIT AGAINST PIT

Category: Citizen Benefits

Brief Description: Any resident who files a PIT return and who is not a dependent of another taxpayer may claim a credit for child daycare expenses incurred and paid to a caregiver in New Mexico during the taxable year. The credit is available to a taxpayer who has a modified gross income, including child support payments, if any, of not more than the annual income that would be derived from earning double the federal minimum wage.

The credit is for 40% of actual compensation paid to a caregiver and may not exceed $480 for each qualifying dependent or $1,200 for all qualifying dependents in any taxable year.

Statutory Basis: 7-2-18.1 NMSA 1978

Intended Purpose: To protect the health, safety and well-being of children of low-income families and to give the parents an opportunity to place their children in day care while they work.

History: Originally enacted in 1981 and amended in 1990, 1995, 1999, and 2015.

Evaluation: In 2011, increased audit and compliance efforts by TRD indicated that this credit was being over-utilized by non-qualified taxpayers. Many taxpayers who previously took the credit could not provide proper documentation and were denied the credit. Some taxpayers report expenditures for non-qualified childcare (care rendered by grandparents, relatives, etc.) or they were not working when the credit was claimed, a requirement for eligibility. The audit and compliance measures resulted in a decline in the number of claims made.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

	Fiscal Year	2014	2015	2016	2017	2018
Child Care Credit against PIT	**Claims**	1,587	1,695	1,542	1,419	1,422
	Expenditure (thousands)	$484	$632	$572	$534	$561

COAL
EXEMPTION FROM SEVERANCE SURTAX

Category: Highly Specialized Industry

Brief Description: The following exemptions are currently in effect: (1) coal sold and delivered pursuant to genuinely new contracts entered into on or after July 1, 1990 without evidence of either producer and/or purchaser purposely taking advantage of the exemption; (2) coal sold and delivered, based on annualized amounts should the term be less than the production years specified, pursuant to contracts already in effect on July 1, 1990, that exceeds the greater of either the average calendar year deliveries under the contract during production years 1987, 1988, and 1989, or the highest contract minimum during 1987-1989. Should an annualized amount fall below the threshold, the exemption shall no longer be applicable unless the deliveries are reduced due to causes beyond the reasonable control of either party to the contract; and (3) if a contract existing on July 1, 1990, and renegotiated after May 20, 1992, requires the purchaser to take annual coal deliveries in excess of the greater of the average calendar year deliveries from 1987-1989 or the highest annual contract minimum from 1987-1989, the surtax does not apply to such excess deliveries for the remaining term of the renegotiated contract.

The taxpayer must register any contract for the sale of coal deemed to meet this exemption with the TRD prior to taking the exemption.

Statutory Basis: 7-26-6.2 NMSA 1978

Intended Purpose: This tax expenditure is an incentive for continued production by the New Mexico coal mining industry, providing reduced tax liability under new or restructured contracts.

History: Originally enacted in 1990 and amended in 1992, 1994, 1995, 1997, and 1999.

Evaluation: The tax expenditure provided through this exemption directly benefits the coal mining industry by providing exemption from the severance surtax. Since 2010, new agreements have been entered into which have resulted in previously unallowable activity to be eligible for this exemption. In the last three years, all coal mined in New Mexico has met exemptions from the surtax. Lower cost of coal can mean lower energy costs for New Mexico consumers as coal is still the majority source of fuel in New Mexico. Nationally natural gas exceeded coal in 2016 as the majority fuel for electricity generation. Natural gas is a less expensive energy source that is more efficient in energy conversion and has lower carbon emissions when compared to coal. As PNM plans to retire the final two coal fired generating units at the San Juan Generating Station in 2022, the current market for New Mexico coal could decrease.

Recommendations: Evaluate benefits of exemption given no revenues received from severance surtax.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal impact: *Note: Some of the data have been redacted due to fewer than 3 taxpayers claiming the exemption. FY2018 has been redacted.*

Coal Exemption from Severance Surtax	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	4	4	3	3	<3
	Expenditure (thousands)	$22,674	$17,211	$15,238	$14,352	--

COMMERCIAL MOTOR CARRIER VEHICLES OPERATING EXCLUSIVELY WITHIN 10 MILES OF MEXICO BORDER EXEMPTION FROM TRIP TAX AND WDT

Category: Economic Development

Brief Description: Use of New Mexico highways by commercial motor carrier vehicles while operating exclusively within 10 miles of a border with Mexico in conjunction with crossing the border with Mexico is exempt from the trip tax and the WDT.

Statutory Basis: 7-15-3.2 and 7-15A-5(D) NMSA 1978

Intended Purpose: To incentivize companies that have cross-border activities to do business in New Mexico instead of Texas and Arizona.

History: Originally enacted in 2006.

Evaluation: The New Mexico Border Authority reports that the number of commercial vehicles crossing the border with Mexico has increased since FY2011. This tax expenditure meets its intended purpose of creating a competitive environment for business in New Mexico. The opening of the large Union Pacific intermodal transfer yard in 2014 near Santa Teresa also indicates this expenditure meets its intended purpose.

Recommendations: None.

Reliability Factor: 3 - Data for truck entries at Santa Teresa was obtained from the U.S. Department of Transportation. The port at Columbus has very few facilities for transfer of freight and was not included. From conversations with NMDOT it was assumed that all of the Santa Teresa entry traffic would stay within the 20-mile North American Free Trade Agreement commercial zone and was destined for the large Union Pacific transfer station 10 miles from the border, or other nearby freight transfer facilities. 20 miles per entry was assumed for a round-trip total road miles calculation. The total number of miles was then multiplied by the average WDT rate of all the weight classes. The same procedure was followed to calculate the trip tax expenditure.

Fiscal Impact:

	Fiscal Year	2013	2014	2015	2016	2017	2018
Commercial Motor Carrier Vehicles Operating Exclusively within 10 Miles of Mexico Border Exemption from Trip Tax and WDT	**Weight Distance Tax Expenditure (thousands)**	$42	$44	$48	$60	$60	$66
	Trip Tax Expenditure (thousands)	$199	$209	$229	$285	$284	$313

CONSTRUCTION EQUIPMENT AND MATERIALS USED IN THE CONSTRUCTION OF SOLE COMMUNITY PROVIDER HOSPITALS GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from sales of construction equipment or construction materials to a foundation or nonprofit organization for use in the new facility construction of a Sole Community Provider Hospital located in a federally designated health professional shortage area are deductible from gross receipts under certain circumstances.

Statutory Basis: 7-9-100 NMSA 1978

Intended Purpose: To reduce the costs of constructing sole community provider hospitals.

History: Originally enacted in 2006.

Evaluation: According to the HSD, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established a rural community hospital demonstration project for 5 years to study a reasonable reimbursement methodology for such hospitals. Section 10313 of the Affordable Care Act expanded and extended this demonstration for another 5 years until 2013. Holy Cross Hospital in Taos, NM participated in this demonstration, but withdrew in 2011. San Miguel Hospital Corporation in Las Vegas, NM was selected to participate in this demonstration under the expansion and extension of this program by the ACA. However, because the extension for the federal pilot program has expired, there are no more federal matching funds to support the services provided at sole community provider hospitals. As a result, and based on information received from HSD, TRD is unaware of any recent new construction of sole community provider hospitals.

Recommendations: Because the Affordable Care Act did not preclude an entity from building or making capital investments in rural (sole) community provider hospitals, the deduction could still fulfill its purpose as rural health facilities find alternative sources of funding for operations.

Reliability Factor: 1 - No new sole community provider hospitals were built in New Mexico over the last several years. No estimation is required.

Fiscal Impact: No taxpayers have claimed this deduction.

CONSTRUCTION OF SOLE COMMUNITY PROVIDER HOSPITALS GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from the sale of engineering, architectural, and construction services to a foundation or nonprofit organization for use in the new facility construction of a Sole Community Provider Hospital located in a federally-designated health professional shortage area are deductible from gross receipts.

Statutory Basis: 7-9-99 NMSA 1978

Intended Purpose: Presumably to reduce the costs of constructing sole community provider hospitals.

History: Originally enacted in 2006.

Evaluation: According to the HSD, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 established a rural community hospital demonstration project for 5 years to study a reasonable reimbursement methodology for such hospitals. Section 10313 of the Affordable Care Act expanded and extended this demonstration for another 5 years until 2013. Holy Cross Hospital in Taos, NM participated in this demonstration, but withdrew in 2011. San Miguel Hospital Corporation in Las Vegas, NM was selected to participate in this this demonstration under the expansion and extension of this program by the ACA. However, because the extension for the federal pilot program has expired, there are no more federal matching funds to support the services provided at sole community provider hospitals. As a result, and based on information received from HSD, TRD is unaware of any recent new construction of sole community provider hospitals.

Recommendations: Based on the presumption that the Affordable Care Act did not preclude an entity from building or making capital investments in rural (sole) community provider hospitals, this deduction would be able to fulfill its purpose as rural health facilities find alternative sources of funding for operations.

Reliability Factor: 1 - No new sole community provider hospitals were built in New Mexico over the last several years. No estimation is required.

Fiscal Impact: None**.**

CONTRIBUTIONS OF INVENTORY TO NONPROFIT ORGANIZATIONS OR GOVERNMENTAL AGENCIES DEDUCTION FROM COMPENSATING TAX

Category:	Citizen Benefits
Brief Description:	The value of tangible personal property that is removed from inventory and contributed to a United States or New Mexico government entity or the governing body of an Indian nation, tribe, or pueblo for use on an Indian reservation or pueblo grant or to 501(c)(3) organizations, is deductible in computing the compensating tax due.
Statutory Basis:	7-9-91 NMSA 1978
Intended Purpose:	To incentivize the contribution of inventory to government entities and nonprofit organizations.
History:	Originally enacted in 2001.
Evaluation:	None.
Recommendations:	Remove the cross-over PIT deduction under § 7-9-91(A) for owners of a pass-through entity from this compensating tax deduction. The legal incident of compensating tax is on the business, even if that business is a pass-through entity. Compensating taxes do not generally flow through to owners.
Reliability Factor:	No data is available to estimate the fiscal impact of this deduction.
Fiscal Impact:	Unknown. ***** As a matter of clarity, having a PIT deduction buried in the language of a compensating tax deduction, when there is no corresponding reference to the deduction within the PIT statutes, is problematic. TRD suggests eliminating the flow-through deduction.

CONVEYANCE OF LAND FOR CONSERVATION OR PRESERVATION FIFTY PERCENT CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers may receive a credit against CIT or PIT for donations of land or interests in land if: (1) the donation is for the purpose of open space, natural resource or biodiversity conservation, agricultural preservation or watershed or historic preservation by the landowner or taxpayer; and (2) the entity receiving the donation is a public or private conservation agency eligible to hold the land and interests therein for conservation or preservation purposes. The credit equals 50% of the fair market value of land or interest therein that was donated.

The amount of the credit that may be claimed by a taxpayer shall not exceed $100,000 for a conveyance made prior to January 1, 2008 and shall not exceed $250,000 for a conveyance made on or after that date.

The credit is not refundable but may be transferred in increments of $10,000 or more or may be carried forward up to twenty years.

A taxpayer may claim only one tax credit per taxable year.

Statutory Basis: 7-2-18.10 and 7-2A-8.9 NMSA 1978

Intended Purpose: These credits were enacted as part of the Land Conservation Incentives Act with the purpose of encouraging private landowners to be stewards of lands that are important habitat areas, or concern significant natural, open space, and historic resources by providing incentives. The credits encourage the protection of private land for open space, natural resources, biodiversity conservation, outdoor recreation, farmland and forest preservation, historic preservation, and land conservation purposes.

History: Originally enacted in 2003 and amended in 2007.

Evaluation: As demonstrated by the charts below, for tax years 2012 through 2017, 65,109 acres of land (or interests therein) have been conveyed for the preservation and conservation purposes. This roughly corresponds to a total cost of $5,956,800 to the State. The resulting average cost per acre is approximately $91.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Conveyance of Land for Conservation or Preservation Fifty Percent Credit against PIT and CIT	Tax Year	2012	2013	2014	2015	2016	2017
	Claims	23	51	42	34	33	16
	Acres Conserved	16,708	14,513	10,683	13,771	8,471	963
	Expenditure (thousands)	$728.3	$1,829.6	$1,541.5	$933.5	$829.0	$94.9

CORPORATE-SUPPORTED CHILD CARE CREDIT AGAINST CIT

Category: Citizen Benefits

Brief Description: Corporations providing or paying for licensed child care services for employees' children under 12 years of age may deduct 30% of eligible expenses from their CIT liability for the tax year in which the expenses occur. This credit has a three-year carry forward. The credit may not exceed $30,000 per taxpayer in any taxable year.

Statutory Basis: 7-2A-14 NMSA 1978

Intended Purpose: To incentivize the provision of childcare by corporations.

History: Originally enacted in 1983 and amended in 1986 and 1995.

Evaluation: This credit has been used by three or fewer taxpayers as of 4-5 years ago.

Recommendations: If incentivization is still desired, consider increasing the per taxpayer limit, possibly based on how many employees' children are participating.

Reliability Factor: Unknown – This credit has recently been added to the latest credit reporting system within Gentax and the fiscal impact should be known going forward.

Fiscal Impact: Unknown, but most likely below $100,000 per year.

DISABLED PERSON EXEMPTION FROM MVX

Category: Citizen Benefits

Brief Description: A person is exempt from the MVX if the person has a disability at the time the person purchases a vehicle and can prove to the Motor Vehicle Division of TRD or its agent, that modifications have been made to the vehicle that are:

(1) due to that person's disability; and

(2) necessary to enable that person to drive that vehicle or be transported in that vehicle.

Statutory Basis: 7-14-6(D) NMSA 1978

Intended Purpose: To lower the tax burden of purchasing a vehicle by individuals with a disability who need to modify their vehicles in order to drive them.

History: Section 7-14-6 was originally enacted in 1998 and amended in 1990, 1994, 2004 and 2007 when Subsection D was added.

Evaluation: This tax expenditure meets its intended purpose of lowering the tax burden of disabled persons.

Recommendations: None.

Reliability Factor: 3 - Information on the number of handicap placards was collected from TRD's internal database. According to the Bureau of Transportation Statistics, 2.3% of disabled people have a specially modified vehicle. The national average prices of new and used vehicles were collected for each year and averaged together. According to the University of Michigan Transportation Research Institute, in 2011 one out of 19.7 drivers bought a new or used vehicle. The total number of handicap placards was multiplied by the ratio of those with specially modified vehicles, then divided by 19.7 and then multiplied by the average price of a new and used vehicle. The resulting dollar amount was multiplied by the MVX rate of 3%.

Fiscal Impact:

Disabled Person Exemption from MVX	**Fiscal Year**	2013	2014	2015	2016	2017	2018
	Expenditure (thousands)	$46	$46	$59	$51	$46	$46

DISABLED STREET VENDORS EXEMPTION FROM GRT

Category:	Citizen Benefits
Brief Description:	Receipts of disabled street vendors from the sale of goods are exempt from GRT.
Statutory Basis:	7-9-41.3 NMSA 1978
Intended Purpose:	To eliminate the burden of having to file and pay GRT for disabled street vendors.
History:	Originally enacted in 2007.
Evaluation:	The compliance rate of the disabled vendors prior to the enactment of the exemption would be expected to be extremely low, resulting in a minimal effective loss of revenue.
Recommendations:	None.
Fiscal Impact:	Unknown.

DOH-LICENSED HOSPITALS CREDIT AGAINST GRT

Category: Health Care

Brief Description: Certain hospitals licensed by the DOH may claim a credit against GRT, escalating from as little as 0.755% starting July 1, 2007, to as much as 5% after July 1, 2011, depending in part on whether the hospital is located in a municipality or in an unincorporated area of a county.

Statutory Basis: 7-9-96.1 NMSA 1978

Intended Purpose: To provide equitable tax treatment between for profit hospitals and not-for-profit hospitals who are exempt from GRT.

History: Originally enacted in 2007; phased-in the credit over five years.

Evaluation: The decrease of this credit in FY2016 is caused by a flurry of applications for refund of other related health care deductions (7-9-93 and 7-9-77.1) resulting from a Hearing Officer's decision and order known as the "HealthSouth" decision. The HealthSouth decision ruled that, contrary to longstanding TRD regulations, for-profit hospitals could claim the deduction under Section 7-9-93 NMSA 1978 for services provided by health care practitioners at those facilities. It also indicated that TRD conceded that for-profit hospitals could claim the deduction under Section 7-9-77.1 NSMA 1978 for health care services when the payments for those services came from specified federal sources. Legislative changes that took place during the 2016 2nd Special Session reversed this decision and precluded for-profit hospitals from claiming these deductions. However, the DOH-licensed hospital credit under Section 7-9-96.1 NMSA 1978 allows for profit hospitals to claim a credit against GRT liability on receipts that are not deductible under other provisions of law.

In addition to the "HealthSouth effect" and to a much lesser degree, TRD's recent enhancements of tax-credit accounting procedures have caused differences between the amounts of this credit reported in this report and previous versions. At this time, the data presented here is the most accurate available to date.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

DOH-Licensed Hospitals Credit against GRT	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$5,278	$9,680	$11,904	$11,901	$18,980

DOH-LICENSED HOSPITALS
FIFTY PERCENT GRT DEDUCTION

Category: Health Care

Brief Description: 50% of the receipts of hospitals licensed by the DOH are deductible from gross receipts.

This deduction may be applied only to the taxable gross receipts remaining after all other appropriate deductions have been taken.

Statutory Basis: 7-9-73.1 NMSA 1978

Intended Purpose: To provide equitable tax treatment between for-profit hospitals and not-for-profit hospitals who are exempt from GRT.

History: Originally enacted in 1991 and amended in 1993 and 1995.

Evaluation: The economic subsidy provided by this deduction against gross receipts is a social policy decision taken to reduce the total cost borne by New Mexicans for eligible hospital care.

Recommendations: None.

Reliability Factor: 2 - This estimate uses GRT reported by taxpayers classified in NAICS sector 622 — Hospitals. The assumption is that those taxpayers are properly classified and have properly applied the deduction after all other applicable deductions. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

DOH-Licensed Hospitals Fifty Percent GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$20,184	$21,565	$14,613	$15,197	$15,805

EDUCATION TRUST FUND PAYMENT DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount equal to the payments made by the taxpayer into the Education Trust Fund pursuant to a college investment agreement or prepaid tuition contract under the Education Trust Act in the taxable year for which the deduction is being claimed.

Statutory Basis: 7-2-32 NMSA 1978

Intended Purpose: To incentivize saving for college.

History: Originally enacted in 1997.

Evaluation: The use of this incentive has been consistent over time. On average, approximately 4,300 taxpayers use the deduction; the average annual expenditure is approximately $1.4 million.

Recommendations: This tax program is crafted to promote investment into post-secondary education, specifically a college education, though this may not be the best path for all New Mexicans. This deduction could be expanded to incentivize a broader array of post-secondary education options.

Reliability Factor: 1 - This deduction is separately reported. No estimation is required.

Fiscal Impact:

Education Trust Fund Payment Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	4,112	4,366	4,384	4,417	4,298
	Expenditure (thousands)	$1,272	$1,446	$1,326	$1,336	$1,417

ELECTRIC TRANSMISSION AND STORAGE FACILITIES GRT AND COMPENSATING TAX DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from selling equipment to the New Mexico Renewable Energy Transmission Authority ("RETA") or an agent or lessee of the authority are deductible from gross receipts if the equipment is installed as part of an electric transmission facility or an interconnected storage facility acquired by the authority, pursuant to the New Mexico Renewable Energy Transmission Authority Act, are deductible from gross receipts.

The value of equipment installed as part of an electric transmission facility or an interconnected storage facility acquired by the authority pursuant to the New Mexico Renewable Energy Transmission Authority Act, is deductible in computing the compensating tax due.

Statutory Basis: 7-9-101 and 7-9-102 NMSA 1978

Intended Purpose: To encourage the development of renewable energy transmission infrastructure in New Mexico.

History: Both deductions were originally enacted in 2007 as part of legislation that enacted the New Mexico Renewable Energy Transmission Authority Act.

Evaluation: At the time of this publication was prepared, RETA had not issued their annual report for the year ending on June 30, 2017. Verbal confirmation was obtained about the information shown in the fiscal impact table for FY 2017.

Recommendations: None.

Reliability Factor: 2 - The 2017 annual report from RETA does not indicate further bond issuance or that RETA has made any qualified expenditures as of FY2017.

Fiscal Impact: None.

ELECTRIC TRANSMISSION AND STORAGE FACILITIES SERVICES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from providing services to the New Mexico Renewable Energy Transmission Authority (RETA) or an agent or lessee of RETA for the planning, installation, repair, maintenance or operation of an electric transmission facility or an interconnected storage facility acquired by the authority pursuant to the RETA Act, are deductible from gross receipts.

Statutory Basis: 7-9-103 NMSA 1978

Intended Purpose: The deduction is intended to encourage the development of renewable energy transmission infrastructure in New Mexico.

History: Originally enacted in 2007 as part of legislation that enacted the New Mexico Renewable Energy Transmission Authority Act.

Evaluation: RETA has reported expenditures for planning and other "governmental activities." Presumably, this will lead to qualified expenditures for the other related deductions.

Recommendations: It would be beneficial for RETA to present RSTP and/or LFC on the status of their current and planned operations as this and other RETA-based deductions have shown very little utilization in recent years.

Reliability Factor: 2 - RETA's annual audit reports list expenditures for planning and development services. All expenditures, excluding personal services and benefits, are assumed to be eligible for this deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact: None.

ELECTRICITY CONVERSION
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from the transmission of electricity where voltage source conversion technology is employed to provide such services, and from ancillary services, are deductible from gross receipts.

This deduction works in tandem with the electricity exchange deduction provided in Section 7-9-103.2 NMSA 1978.

Statutory Basis: 7-9-103.1 NMSA 1978

Intended Purpose: This deduction is intended to encourage businesses using voltage source conversion technology to locate in New Mexico.

History: Originally enacted in 2012.

Evaluation: October 2017 marked seven years since Tres Amigas, LLC first announced its plan to create an electrical superstation connecting three U.S. power grids, with Clovis at the center. That superstation still has some ways to go, but is "alive and well," according to Tres Amigas Chief Financial Officer Russell Stidolph. Although the company three years ago announced a 2016 completion date, Stidolph now expects the finished project to emerge in another three to five years.

According to the Tres Amigas website, the U.S. is home to vast quantities of clean energy resources — wind, solar, geothermal, and hydropower. Yet, it lacks a modern interstate transmission grid to deliver carbon-free electricity to customers in highly populated areas of the country. Voltage source conversion is an emerging technology. In 2015 the company announced that it was planning to invest $500 million on a first-of-its kind project in Clovis that would connect the country's three disparate power grids.

Recommendations: None.

Reliability Factor: 1 - There are currently no known facilities utilizing this technology in New Mexico.

Fiscal Impact: No taxpayers have claimed this deduction.

ELECTRICITY EXCHANGE
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from the transaction and exchange of electric power, as a part of the transmission of electricity where voltage source conversion technology is employed to provide such services and from ancillary services, are deductible from gross receipts.

This deduction works in tandem with the electricity conversion deduction provided in Section 7-9-103.1 NMSA 1978.

Statutory Basis: 7-9-103.2 NMSA 1978

Intended Purpose: To encourage the location of electricity exchanges in New Mexico.

History: Originally enacted in 2012.

Evaluation: October 2017 marked seven years since Tres Amigas, LLC first announced its plan to create an electrical superstation connecting three U.S. power grids, with Clovis at the center. That superstation still has a way to go, but is "alive and well," according to Tres Amigas Chief Financial Officer Russell Stidolph. Although the company three years ago announced a 2016 completion date, Stidolph now expects the finished project to emerge in another three to five years.

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Recommendations: None.

Reliability Factor: 1 – The deduction is separately reported.

Fiscal Impact: NOTE: Data has been redacted in all years due to fewer than 3 taxpayers taking the deduction.

ELECTRONIC ID READER
CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: A taxpayer licensed to sell cigarettes, other tobacco products, or alcoholic beverages may claim a one-time credit of up to $300 against PIT and CIT for the purchase of electronic card-reading equipment for age verification. The credit is allowed for each business location where the business installs the equipment.

Statutory Basis: 7-2-18.8 and 7-2A-18 NMSA 1978

Intended Purpose: To incentivize the use of the equipment necessary to electronically verify the age of purchasers of tobacco and alcohol by subsidizing its cost.

History: Originally enacted in 2001.

Evaluation: This credit is not used.

Recommendations: This credit should be re-evaluated, considering input from industry stakeholders, or be repealed as ineffective and unused. Industry changes with respect to electronic age verification equipment and systems as well as industry saturation should be considered.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None. This credit has never been claimed.

EXCESS OF ELDERLY TAXPAYERS MAXIMUM PROPERTY TAX LIABILITY REBATE FROM PIT

Category: Citizen Benefits

Brief Description: Taxpayers who are 65 and older may claim a PIT rebate for the amount of their property tax that exceeds their maximum liability (ranging from $20 to $300 depending on the taxpayer's modified gross income). No tax rebate shall be allowed to any taxpayer whose modified gross income exceeds $16,000 unless the taxpayer's principal place of residence is in a county that has in effect a resolution authorizing an increase to a $25,000 gross income cap for the taxable year.

Statutory Basis: 7-2-18 NMSA 1978

Intended Purpose: To offset the property tax costs for taxpayers who are often on fixed income.

History: Originally enacted in 1977 and amended in 1981, 1993, 1997, 1999, and 2003.

Evaluation: According to the U.S. Census, the number of people over 65 who are in the labor force is increasing. By continuing to work, the likelihood is that their income exceeds the statutory threshold so that they no longer qualify for this rebate.

Recommendations: None.

Reliability Factor: 1 - This rebate is separately reported. No estimation is required.

Fiscal Impact:

	Fiscal Year	2014	2015	2016	2017	2018
Excess of Elderly Taxpayers Maximum Property Tax Liability Rebate from PIT	**Claims**	16,892	16,785	16,410	15,972	15,177
	Expenditure (thousands)	$3,391	$3,422	$3,366	$3,305	$3,173

FEES FROM SOCIAL ORGANIZATIONS EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts from dues and registration fees of nonprofit social, fraternal, political, trade, labor, or professional organizations and business leagues, are exempt from GRT.

Statutory Basis: 7-9-39 NMSA 1978

Intended Purpose: To reduce the tax burden of certain nonprofit entities.

History: Originally enacted in 1969 and amended in 1977.

Evaluation: With no direct data, a proper evaluation is difficult.

Recommendations: For clarity and consistency with other statutes addressing nonprofits, reference the United States Internal Revenue Code organization subsections that correspond to the description of organizations and leagues in statute.

Reliability Factor: 4 – The Internal Revenue Service (IRS) releases data for many nonprofits exempt from federal income tax who file an annual Form 990 Return. The National Center for Charitable Statistics has assembled IRS Form 990 data to report aggregate statistics by state. State level data is available for total revenue and total assets by nonprofits sub-divided by the IRS subsections for 501(c)s. While membership dues and registration fees are reported on IRS Form 990 returns, this detail is only aggregated at the national level. Calculating the national estimates of membership dues and registration fees as a percentage of total revenues, these estimates are applied to state level total revenue. Assumptions are made as to which 501(c) organizations this statute applies to and the corresponding percentage of revenue coming from dues and fees. In the 2016 TER, this percentage was assumed to be 10% across all nonprofits. This assumption remains consistent with the majority of nonprofit categories. For one subsection of nonprofits, social and recreational clubs with the designation 501(c)(7), the assumed percentage rate is over 50%. The yearly estimates show an increased amount compared to the 2017 TER due to the higher percentage for 501(c)(7)s. The exemption amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Fees from Social Organizations Exemption from GRT	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$4,600	$4,800	$4,600	$4,600	$4,700

FILM AND TELEVISION CREDIT AGAINST PIT AND CIT

Category: Economic Development

Brief Description: The film production tax credit applies only to film production companies that commence principal photography prior to January 1, 2016. A credit against PIT or CIT is available for 25% of direct production and postproduction expenditures made in New Mexico that are subject to taxation by the State of New Mexico and directly attributable to the production of a film or commercial audiovisual product.

An additional 5% is available for direct production expenditures for TV pilots and series with at least six episodes in a single season and a budget of at least $50,000 per episode. The additional 5% also applies to direct production expenditures that are directly attributable to the wages and fringe benefits paid to a New Mexico resident directly employed in an industry crew position, excluding a performing artist, on a production with a total budget of:

(1) not more than $30,000,000 that shoots at least ten principal photography days at a qualified production facility in New Mexico; or

(2) $30,000,000 or more that shoots at least fifteen principal photography days at a qualified production facility in New Mexico.

A tiered schedule of payments is provided based on the size of the film tax credit. For credits under $2 million, the credit is paid immediately upon authorization. For credits between $2 million and $5 million, 50% of the payment is paid immediately upon authorization; the other 50% is paid twelve months following that date. For credits over $5 million, the refund will be paid in three equal installments; one is paid immediately upon authorization, one is paid the following year, and the last is paid two years following the authorization date.

An aggregate annual cap limits payouts of the film production tax credit to $50 million across both PIT and CIT programs in any fiscal year.

Statutory Basis: 7-2F-1 *et seq.* NMSA 1978

Intended Purposes: The purposes and goals of the film production tax credit are to:

1. establish the film industry as a permanent component of the economic base of New Mexico;
2. develop a pool of trained professionals and businesses in New Mexico to supply and support the film industry in the state;
3. increase employment of New Mexico residents;

4. improve the economic success of existing businesses in New Mexico; and
5. develop the infrastructure in the state necessary for a thriving film industry.

History: Originally enacted in 2002 and amended in 2003, 2005, 2006, 2007, 2011, 2013, 2015 and 2016.

The 2011 amendment added a $50 million cap, provided tracking requirements, required film production companies to submit the application/claim within one year, and required mandatory income tax withholding on non-resident actors.

The 2013 amendment allowed an additional 5% to be added to the calculation for the film production tax credit for television shows subject to certain requirements (the "Breaking Bad" provision); also allowed for any amount of annual film credit that is unused in Fiscal Years 2013-2015 under the $50 million cap — up to a maximum of $10 million — to be carried forward and added into the subsequent fiscal year's cap; in any year where the $50 million cap is not reached, if there are amounts that would be paid in a subsequent year under the multi-year provisions of the film credit, those subsequent year amounts may be paid in the current year up to the $50 million cap; provided more specific requirements for withholding taxes related to services provided by artists under the "direct production expenditures" provisions of the credit, and provided for a definition of "qualified production facility" and clarified tax obligations of non-resident vendor services.

In 2015, the film and television tax credit added credits for television pilots and series, qualified production facilities, non-resident industry crews, limited payments for performing artists, and added requirements to contract with certain vendors. An additional amendment added a provision for a film production company that is eligible to receive a film production credit, to assign payment of all or a portion of the credit to either a third-party financial institution or another authorized third party. The 2015 amendment had no impact on the time periods covered by this report.

Evaluation: The film & television industry has a cyclical characteristic; production locations change in accordance with the whims of popular culture. Thus, while the incentive has been extremely effective, New Mexico competes with other states as well as other countries to attract major film and television productions.

Recommendations: The mechanics of this program result in taxpayers applying for the benefit by amending returns. Additionally, larger refunds are spread across multiple fiscal years. Coupled with the aggregate cap, this reduces the availability of incentive in future years.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Film and Television Credit Against PIT and CIT	Fiscal Year	2013	2014	2015	2016	2017	2018
	Expenditure (thousands)	$50,000	$50,000	$49,999	$48,967	$49,971	$49,965

FUEL FOR SPACE VEHICLES
EXEMPTION FROM GRT AND COMPENSATING TAX

Category:	Highly Specialized Industry
Brief Description:	Receipts from the sale and the use of fuel, oxidizer, or a substance that combines fuel and oxidizer to propel space vehicles or to operate space vehicle launchers are exempt from GRT and compensating tax.
Statutory Basis:	7-9-26.1 NMSA 1978
Intended Purpose:	To incentivize space related launches at Spaceport America and elsewhere in the state.
History:	Originally enacted in 2003 as part of legislation exempting a number of space-related activities from GRT and compensating tax.
Evaluation:	From publicly available information and that published by the Spaceport, a company has recently expanded at the spaceport to include manufacturing fueled motors. Two other operators which would require refueling activities have also made significant investments at the site and others have signed partnerships with the authority. Additionally, a space focused small business relocated their headquarters to New Mexico, but progress on actual launches appears to be sporadic. Commercial suborbital flights may begin within CY 2019, but there is no committed schedule yet.
Recommendations:	None.
Reliability Factor:	No data is available to estimate the fiscal impact, but it is probably minimal. Many companies involved in this business could be described as having irregular cash flow, and, without a reporting requirement, it is difficult to ascertain which companies qualify and how much the exemption for fuel is being used. Other deductions for the space industry or jet fuel could conceivably apply as well.
Fiscal Impact:	Unknown.

GEOTHERMAL GROUND-COUPLED HEAT PUMP CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: A taxpayer who purchases and installs after January 1, 2010 but before December 31, 2020 a geothermal ground-coupled heat pump in a residence, business, or agricultural enterprise in New Mexico may claim a credit up to 30% of the purchase and installation costs against PIT or CIT.

A "geothermal ground-coupled heat pump" is a device that provides space or water heating or cooling via ground water or water circulating through the ground. The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed nine thousand dollars ($9,000). The department may allow a maximum annual aggregate of two million dollars ($2,000,000) in geothermal ground-coupled heat pump tax credits.

Statutory Basis: 7-2-18.24 and 7-2A-24 NMSA 1978

Intended Purpose: To subsidize the geothermal ground-coupled heat pump industry.

History: Originally enacted in 2009.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Geothermal Ground-Coupled Heat Pump Credit against PIT and CIT	**Tax Year**	2012	2013	2014	2015	2016	2017
	Claims	13	173	188	264	328	203
	Expenditure (thousands)	$38.0	$547.2	$519.1	$762.1	$876.3	$422.2

GOODS AND SERVICES FOR THE DOD RELATED TO DIRECTED ENERGY AND SATELLITES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Prior to January 1, 2021, receipts from the sale by a qualified contractor of qualified research and development services and qualified directed energy and satellite-related inputs, may be deducted from gross receipts when sold pursuant to a contract with the U.S. Department of Defense.

A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by TRD.

Definitions:
(1) "directed energy" means a system, including related services, that enables the use of the frequency spectrum, including radio waves, light and x-rays;
(2) "inputs" means systems, subsystems, components, prototypes and demonstrators or products and services involving optics, photonics, electronics, advanced materials, nanoelectromechanical and microelectromechanical systems, fabrication materials and test evaluation and computer control systems related to directed energy or satellites.

Statutory Basis: 7-9-115 NMSA 1978

Intended Purpose: To promote new and sophisticated technology, enhance the viability of directed energy and satellite projects, attract new projects and employers to New Mexico and increase high-technology employment opportunities in New Mexico.

History: Originally enacted in 2015.

Evaluation: It is too early to tell if this deduction has fulfilled the purpose for which it was created.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

NOTE: Some of the data have been redacted due to fewer than 3 taxpayers claiming the credit. FY2014-16 has been redacted.

Fiscal Impact:

Goods and Services for the DOD Related to Directed Energy and Satellites GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	-	-	-	$267.6	$789.1

HEALTH CARE PRACTITIONER SERVICES GRT DEDUCTION AND HOLD HARMLESS DISTRIBUTION

Category: Health Care

Brief Description: Receipts of licensed health care practitioners from payments by managed health care providers or by health care insurers for commercial contract services or by Medicare Part C services provided by a health care practitioner, are deductible from gross receipts.

The deduction is required to be separately stated by the taxpayer. During the 2016 2nd special session, Section 7-1-69.2 was created to add a penalty for incorrectly filing for this and for the food (hold harmless) deductions instead of taking other exemptions or deductions which must be taken first, resulting in a hold harmless distribution. The penalty is equal to 20% of the value of the hold harmless distribution resulting from the incorrect deduction.

Enacted with the originating legislation were provisions in the Tax Administration Act that revenues of municipal and county governments would be held harmless from the deduction.

Statutory Basis: 7-9-93, 7-1-6.46, and 7-1-6.47 NMSA 1978

Intended Purpose: To keep health care providers in the state.

History: All three sections were originally enacted in 2004 and amended in 2006 and 2007. Sections 7-1-6.46 and 7-1-6.47 NMSA 1978 were also amended in 2013. Section 7-9-93 was amended during the 2016 2nd special session to reinstate the presumed original intention of the deduction by restricting it to health care practitioners only and not hospitals.

Evaluation: Because of the hold harmless provision and the loss of the revenue which has been made up through other tax burdens, this deduction comes at a significant cost to both the General Fund and the very taxpayers it is benefitting.

The significant increase of this deduction in FY2016 is caused by a flurry of applications for refund resulting from a Hearing Officer's decision and order known as the "HealthSouth" decision. The HealthSouth decision ruled that, contrary to longstanding TRD regulations, for-profit hospitals could claim the deduction under Section 7-9-93 NMSA 1978 for services provided by health care practitioners at those facilities. It also indicated that TRD conceded that for-profit hospitals could claim the deduction under Section 7-9-77.1 NSMA 1978 for health care services when the payments for those services came from specified federal sources. Legislative changes took place during the 2016 1st Special Session reversing this decision and precluded for-profit hospitals from claiming these deductions. However, the DOH-licensed hospital credit under Section 7-9-96.1 NMSA 1978 allows for profit

hospitals to claim a credit against GRT liability on receipts that are not deductible under other provisions of law.

Recommendations: None.

Reliability Factor: 1 – This deduction is separately reported. No estimation is required. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Health Care Practitioner Services GRT Deduction and Hold Harmless Distribution	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure from Hold Harmless Distributions (thousands)	$32,840	$31,266	$48,828	$28,392	$21,523
	Expenditure from Deduction (thousands)	$51,821	$43,849	$39,104	$38,441	$32,971

HEARING AND VISION AIDS
GRT DEDUCTION

Category: Health Care

Brief Description: Receipts from the sale of vision and hearing aids or from fitting and dispensing of these types of aids are deductible from gross receipts.

Definitions:

(1) "vision aids" are defined as closed circuit television systems, monoculars, magnification systems, speech output devices or other systems specifically designed for use by persons with low vision or visual impairment and not normally used by a person who does not have low vision or visual impairment;
(2) "visual impairment" is defined as a central visual acuity of 20/200 or less in the better eye with use of a correcting lens, or a limitation in the fields of vision so the widest diameter of visual field subtends an angle of 20 degrees or less; and,
(3) "hearing aids" are defined as small electronic prescription devices that amplify sound and are usually worn in or behind the ear of a person with impaired hearing.

Statutory Basis: 7-9-111 NMSA 1978

Intended Purpose: To benefit persons who, due to medical conditions, are in need of hearing and vision aids. The deduction then would reduce the tax burden imposed by GRT and increase the taxpayers' disposable income.

History: Originally enacted in 2007.

Evaluation: The Centers for Disease Control and Prevention reports that half of adults who are 75 and older report some hearing loss. This is a population that is primarily covered by Medicare but Medicare does not reimburse for hearing aids or the exams needed for fitting aids. Those who served in the US military can have hearing aids covered through the Department of Veterans Affairs. The cost of one hearing aid can be between $1,000 and $4,000 making it cost prohibitive for many to purchase one aid let alone two. Access to affordable vision and hearing aids represents a better quality of life, and this deduction may enable some New Mexicans to afford the purchase of these aids.

Recommendations: None.

Reliability Factor: 4 – Using data from the U.S. Census Bureau 2012 Economic Survey, the estimated sales of hearing aids in New Mexico is used to calculate a portion of this deduction. The 2012 estimate for hearing aids sales was grown by the growth of the New Mexico population 60 and older as estimated by the U.S. Census Bureau, American Community Survey 1-year estimates. This

deduction estimate is under-estimating the total expenditure amount as the data only covers sales of hearing aids and not related services for fitting hearing aids. Also not included is any data related to vision aids as detailed in statute. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Hearing and Vision Aids GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$270	$280	$290	$300	$310

HIGH-WAGE JOBS
CREDIT AGAINST MODIFIED COMBINED TAX

Category:	Economic Development
Brief Description:	Eligible employers who create high-wage jobs in New Mexico may apply for a tax credit against GRT (less local option GRT), compensating tax, withholding tax, E911, and CRS tax due.

An "eligible employer" is an employer that:

(1) made more than 50% of its sales of goods or services produced in New Mexico to persons outside New Mexico during the applicable qualifying period, or

(2) is eligible for the Job Training Incentive Program assistance administered by EDD.

The amount of the high wage jobs tax credit ("HWJTC") would be equal to 10% of the qualifying wages and benefits in an eligible job up to $12,000 for each job. If an eligible employer meets the requirements, there is no upward limit on the potential number of total credits claimed.

Statutory Basis: 7-9G-1 NMSA 1978

Intended Purpose: To provide an incentive for urban and rural businesses to create and fill new high-wage jobs in New Mexico.

History: Originally enacted in 2004 and amended in 2007, 2008, 2013, and 2016.

The 2013 amendment clarified the application of the high-wage jobs tax credit; defined "benefits" and "wages"; added the purpose section; clarified the $12,000 limitation applied per job per qualifying period; limited the time for which a taxpayer can apply for approval of the credit to no later than 12 months following the end of the calendar year in which the taxpayer's final qualifying period closes; closed a loophole with respect to mergers, acquisitions, and reorganizations; changed the population threshold for rural/urban distinction from 40,000 to 60,000; clarified that the eligible employee must be employed in New Mexico; clarified that the goods or services sold must be produced in New Mexico; added a requirement that the taxpayer be certified by EDD as eligible for development training program assistance in order to be an "eligible employer"; clarified that a "new high-wage economic-based job" must be a "new" job and must be in New Mexico; extended the deadline to hire to July 1, 2020; increased the wages that must be paid to qualify after July 1, 2015 (from $40,000 to $60,000 in urban communities and from $28,000 to $40,000 in rural communities).

The amendment that took place during the 2016 2nd Special Legislative session changes the eligibility requirements to qualify for the credit and requires annual filing, whereas pre-amendment statute allowed filing for multiple qualifying periods at once. The amendment's primary purpose is to close gaps in the statute's language that allowed unintended recipients to receive the credit. The amendment also removed employee benefits from the calculation of the credit value.

Evaluation: Because of the changes to the law that occurred in the 2013 session and the flurry of claims that preceded the effective date of those changes, TRD awarded significant amounts of HWJTC claims in FY2015 and FY2016. TRD economists, as part of the Consensus Revenue Estimating Group anticipated that significant HWJTC claims would be paid out during FY2015 and FY2016 because of the 2013 flurry of claims. TRD has been operating on the assumption that the law changes that went into effect in June 2013 would result in a reduction in HWJTC claims once the backlog of claims and protests, which were filed days before the effective date of those changes, cleared legal and the courts. Based on recent legislative changes that took place during the 2016 2nd special legislative session, TRD estimated the amounts of HWJTC claims to decrease significantly starting in FY2017to an annual base of $15 million (new applications); the actual total claimed or paid amount in FY2017 did not deviate significantly from this estimate as shown through the fiscal impact chart below.

The GRT data included in the fiscal impact chart was obtained through a different source from GenTax. Hence, data for fiscal years between FY2013 and FY2017 has been updated to reflect the change.

Recommendations: Tie eligible employer definition to criteria in JTIP program. Remove "penalty box" provisions that prevent application if employment drops. Reduce credit rate to top personal income tax rate (currently 4.9%). Extend the period of time for which credit can be claimed. Extend the sunset date to 2018.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

High-Wage Jobs Credit against Modified Combined Tax	**(Fiscal or Calendar) Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$46,646	$70,102	$45,975	$12,518	$8,551

HOSTING WORLD WIDE WEB SITES
GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from internet connected facilities that store data are deductible from gross receipts. Despite the title, the statute indicates it is not limited to facilities that provide web-hosting. Any facility storing data and connected to the internet qualifies for this deduction.

Statutory Basis: 7-9-56.2 NMSA 1978

Intended Purpose: Presumably to incentivize data centers to relocate in New Mexico.

History: Originally enacted in 1998.

Evaluation: According to Data Center Map's website (datacentermap.com), there are currently 6 colocation data centers operating in the state; 4 of them are located in Albuquerque, 1 in Santa Fe, and 1 in Taos. The majority of these companies started operations in New Mexico after the deduction became effective. However, the statute is written broadly enough that any facility storing data and connected to the internet qualifies. Although a large multinational company has recently constructed a data center in the state, it is unlikely this deduction will affect the amount of GRT the company pays.

Recommendations: None.

Reliability Factor: 2 – The GRT deduction taken by all the companies filing under a NAICS code indicating a primary business of Data Processing, Hosting, and Related Services was summed, assuming that one-third of this amount was affected because of this deduction.

Fiscal Impact:

Hosting World Wide Web Sites GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$100	$140	$140	$170	$210

HYBRID VEHICLE
EXEMPTION FROM MVX

Category: Citizen Benefits

Brief Description: Gasoline-electric hybrid vehicles with a rating of at least 27.5 miles per gallon, as certified by the U.S. Environmental Protection Agency are eligible for a one-time exemption from the MVX at the time of issuance of the original title.

The exemption was effective from July 1, 2004 to June 30, 2009.

Statutory Basis: 7-14-6(G) NMSA 1978

Intended Purpose: To incentivize the purchase of gasoline-electric hybrid vehicles, presumably to help with their overall adoption while also improving air quality, reducing carbon emissions and reducing dependence on petroleum.

History: The section was originally enacted in 1988 and amended in 1990, 1994, 2004, and 2007.

This particular exemption was enacted by the amendment in 2004.

Evaluation: Data is unavailable for hybrid vehicles sales back to the time this statute was in effect. Overall, sales in the US of various forms of hybrid and electric vehicles is much more common than when the statute was enacted, but currently this still only amounts to 2.2% of new and used sales in New Mexico, versus a US average of 2.6%. Other states are able to incentivize to achieve sales in the 3% to 7% range.

Recommendations: If encouragement of hybrid and electric vehicle sales is still desired, amend the effective dates of the statute and modernize to a higher requirement on mileage rating, battery size, plug-in capability and/or full electric capability. Income tax liability deductions are also used as incentives in many states and with the federal government.

Reliability Factor: 1 - This exemption expired on June 30, 2009. Since then, no hybrid vehicle qualifies for the exemption.

Fiscal Impact: None.

INVESTMENT CREDIT AGAINST GRT, COMPENSATING TAX, OR WITHHOLDING TAX

Category: Economic Development

Brief Description: The investment credit is for equipment owned and introduced into New Mexico for use by a taxpayer in a new or expanded manufacturing operation.

To be eligible for the credit, until June 30, 2020, the taxpayer must employ one full-time equivalent ("FTE") for every $500,000 of qualified equipment claimed (up to $30 million) and one FTE for every $1 million of qualified equipment claimed (over $30 million). After June 30, 2020, the taxpayer must employ one FTE for every $100,000 of qualified equipment claimed.

The credit may be applied against a maximum of 85% of a taxpayer's gross receipts, compensating, and withholding tax liability, but may not be taken against any local option GRT imposed by a county or municipality.

The credit is refundable only up to $250,000 if the taxpayer's available credit is less than $500,000 and the sum of the taxpayer's gross receipts, compensating, and withholding tax due for the previous calendar year was less than 35% of the taxpayer's available credit but more than $10,000.

There is no limit on how long the credit can be carried forward.

Statutory Basis: 7-9A-1 *et seq.* NMSA 1978

Intended Purpose: To provide a favorable tax climate for manufacturing businesses and to promote increased employment in New Mexico.

History: Originally enacted in 1979 and amended in 1983, 1986, 1990, 1991, 2001, 2002, 2003, and 2009.

Evaluation: EDD reports that due to this incentive, the state has attracted manufacturing businesses from key industries such as oil and gas producers, breweries and wineries.

Recommendations: Establish procedures for when the credit should be claimed. The credit should be claimed in consecutive months once the company starts claiming the credit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Investment Credit against GRT, Compensating Tax, or Withholding Tax	(Fiscal or Calendar) Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$8,710	$2,365	$2,004	$1,157	$1,235

INVESTMENT MANAGEMENT OR ADVISORY SERVICES GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from fees received for performing management or investment advisory services for a mutual fund, hedge fund, or real estate investment trust, are deductible from gross receipts.

Statutory Basis: 7-9-108 NMSA 1978

Intended Purpose: To incentivize fund managers to move to New Mexico, thereby increasing income tax revenues and disposable income that will circulate through the State's economy.

History: Originally enacted in 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 4 - TRD does not have any direct data to estimate this deduction. Gross receipts for taxpayers classified in certain financial activities are aggregated to establish a bound for this deduction. This estimate should be understood to represent the estimated general magnitude of the deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Investment Management or Advisory Services GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$155	$140	$140	$110	$130

JET FUEL FIFTY-FIVE PERCENT GRT AND COMPENSATING TAX DEDUCTION

Category: Economic Development

Brief Description: From July 1, 2003 through June 30, 2017, 55% of the receipts from the sale of fuel specially prepared and sold for use in turboprop or jet-type engines, as determined by TRD, are deductible from gross receipts.

From July 1, 2003 through June 30, 2017, 55% of the value of the fuel specially prepared and sold for use in turboprop or jet-type engines as determined by TRD, may be deducted in computing compensating tax.

After June 30, 2017, the amount of the deductions is reduced to 40% of the receipts from the sale or value of the fuel.

Statutory Basis: 7-9-83 and 7-9-84 NMSA 1978

Intended Purpose: Presumably to incentivize routing of air traffic through New Mexico by reducing the effective cost of refueling in New Mexico.

History: Originally enacted in 1993 and amended in 2003, 2006, and 2011, when the 55% deduction was extended through 2017

Evaluation: According to the U.S. Dept. of Transportation, for the last several years before 2017, total departures from the Albuquerque Sunport have been decreasing. Although the repeal of the Wright amendment resulted in a larger than usual decrease in FY2015, the decrease has been getting smaller, and is estimated at 2.2% for FY2016. It was then up 2.7% in 2017. As shown below, expenditures for jet fuel have been moving more significantly than the change in flight count. This is generally attributed to changing fuel prices overall, as well as increasing efficiency in airliners. Therefore, it is unclear if this deduction is exerting any influence on purchases of jet fuel in New Mexico.

Recommendations: None.

Reliability Factor: 3 - EIA's published statewide expenditures on jet fuel were used for this estimate. 80% is assumed to be subject to GRT at the statewide average tax rate; the remainder is assumed to fall under compensating tax.

Fiscal Impact:

Jet Fuel Fifty-Five Percent GRT and Compensating Tax Deduction	**Fiscal Year**	2013	2014	2015	2016	2017
	Expenditure (thousands)	$4,900	$4,700	$3,100	$2,500	$3,100

JOB MENTORSHIP
CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Businesses hiring qualified students in a school-sanctioned, career-preparation education program may claim a credit against PIT and CIT. Qualifying businesses must employ students attending an accredited New Mexico secondary school full-time.

Credits are for 50% of the gross wages paid, subject to limitations. In no event shall a taxpayer claim a credit in excess of twelve thousand dollars ($12,000) in any taxable year.

Statutory Basis: 7-2-18.11 and 7-2A-17.1 NMSA 1978

Intended Purpose: To encourage New Mexico businesses to hire youth participating in a career preparation education program.

History: Originally enacted in 2003.

Evaluation: None.

Recommendations: While the purpose of the credit is positive, it does not appear to be working as an incentive for businesses to hire qualified students. A requirement for qualified programs at secondary schools could be implemented, and a concerted effort at outreach to both businesses and schools may improve awareness of the credit.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

NOTE: Some of the data have been redacted due to fewer than 3 taxpayers claiming the credit. CY2016-17 has been redacted.

Fiscal Impact:

Job Mentorship Credit against PIT and CIT	**Calendar Year**	2013	2014	2015	2016	2017
	Claims	6	5	5	<3	<3
	Expenditure (thousands)	$17.8	$13.1	$12.1	-	-

LABORATORY PARTNERSHIP WITH SMALL BUSINESS CREDIT AGAINST GRT

Category: Economic Development

Brief Description: A national laboratory that offers certain types of eligible assistance to individual small businesses in New Mexico, and incurs expenses for doing so, may take a credit against the state portion of GRT of up to $10,000 per business ($20,000 per business in a rural area). The tax credits taken by an individual national laboratory shall not exceed $2,400,000 in a given calendar year.

Statutory Basis: 7-9E-1 *et seq.* NMSA 1978

Intended Purpose: To bring the technology and expertise of the national laboratories to small businesses in New Mexico to promote economic development in the state, with an emphasis on rural areas.

History: Originally enacted in 2000 and amended in 2007.

Evaluation: Sandia and Los Alamos National Laboratories, through New Mexico Small Business Assistance (“NMSBA”), file an annual report with the appropriate legislative committee, documenting various program metrics. NMSBA reports that since inception, the program has assisted 2,495 small businesses with 4,863 jobs created and retained. The full report published in April of 2016 can be obtained through nmsbaprogram.org. Because the credit maximums are based on a calendar year, it would seem the cap was exceeded in FY 2014. This is not the case as the amounts are reported on a fiscal year basis.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Laboratory Partnership with Small Business Credit against GRT	(Fiscal Year)	2014	2015	2016	2017	2018
	Expenditure (thousands)	$4,537	$4,655	$4,712	$2,400	$7,001

NOTE: We are not required to redact this information even though it relates to fewer than three taxpayers because the data is published independently by both taxpayers.

LOAN-RELATED COSTS
GRT DEDUCTION

Category:	Citizen Benefits
Brief Description:	Receipts from charges made in connection with the origination, making, or assumption of a loan or from charges made for handling loan payments are deductible from gross receipts.
Statutory Basis:	7-9-61.1 NMSA 1978
Intended Purpose:	Reduce the costs of borrowing.
History:	Originally enacted in 1981.
Evaluation:	None.
Recommendations:	None.
Reliability Factor:	This deduction has no reporting requirement and TRD does not have any direct data to estimate it.
Fiscal Impact:	Unknown.

LOCOMOTIVE ENGINE FUEL
GRT AND COMPENSATING TAX DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from the sale of fuel to a common carrier to be loaded or used in a locomotive engine are deductible from gross receipts.

The value of fuel to be loaded or used by a common carrier in a locomotive engine in a locomotive engine is deductible when computing the compensating tax due.

Statutory Basis: 7-9-110.1 and 7-9-110.2 NMSA 1978

Intended Purpose: To encourage the construction, renovation, maintenance and operation of railroad locomotive refueling facilities and other railroad capital investments in New Mexico.

History: Originally enacted in 2011; became effective July 1, 2013 upon certification by EDD that construction had commenced.

Evaluation: Construction of the Union Pacific ("UP") intermodal ramp and refueling facility in Santa Teresa was completed in December 2014. According to UP's annual report, the company has invested over $400 million in the 2,200-acre facility between 2011 and 2014 and $153 million in its rail infrastructure in the State. The company reports they have created about 1,375 construction jobs over the 3.5 years construction period. As of June 30, 2018, UP reported 436 permanents jobs (308 UP employees and 128 contractors). UP reports that 75 of those jobs are subject to New Mexico withholding, and 35 are New Mexico residents. Burlington Northern Santa Fe ("BNSF") reports New Mexico operating revenue of $1.6 billion for the period ending June 30, 2017, an increase of $122 million or 8.25% since they qualified for the deduction in 2013. BNSF represents one of the largest private sector employers in the cities of Clovis, Belen, and Gallup. BNSF reports they have created 1,101 permanent jobs since qualifying for the deduction. According to the Border Industrial Association, Santa Teresa continues to show robust economic growth thanks to the ripple effect associated with increase in economic activity in the region.

Recommendations: None.

Reliability Factor: 2 - The amount of this deduction is separately reported directly by taxpayers to EDD. While there was some estimation in the taxpayer's reports, no estimation is required by TRD.

Fiscal Impact:

Locomotive Engine Fuel GRT and Compensating Tax Deduction	Fiscal Year	2014	2015	2016	2017	2018
	Comp Tax Expenditure (thousands)	$13,240	$19,309	$11,400	$10,757	$12,310
	Gross Receipts Tax Expenditure (thousands)	$1,925	$3,831	$4,600	$6,134	$9,982

LOTTERY RETAILER RECEIPTS
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts of a lottery game retailer from selling lottery tickets pursuant to the New Mexico Lottery Act may be deducted from gross receipts.

Statutory Basis: 7-9-87 NMSA 1978

Intended Purpose: To reduce the cost of lottery tickets in an effort to increase lottery ticket sales, a portion of which goes to the Lottery Scholarship Program.

History: Originally enacted in 1995.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 – The cost of this deduction was estimated using gross revenues published by the New Mexico Lottery through their annual reports multiplied by the statewide average GRT rate for each year.

Fiscal Impact:

Lottery Retailer Receipts GRT Deduction	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$9,350	$9,450	$9,600	$9,000	$10,720

LOW-INCOME
COMPREHENSIVE TAX REBATE AND PROPERTY TAX REBATE AGAINST PIT

Category: Citizen Benefits

Brief Description: This expenditure consists of two separate statutory provisions. The low-income comprehensive tax rebate ("LICTR") is a partial offset for state and local consumption taxes paid by low income taxpayers. It may be claimed by taxpayers with a modified gross income of less than $22,000. The rebate amount is dependent upon modified gross income as well as the number of exemptions claimed and varies between $10 and $450.

The low-income property tax rebate is a partial offset for property taxes paid by low income residents. It may be claimed by individuals with:

(1) a principal place of residence in a county that has enacted an ordinance authorizing the rebate (to date only Los Alamos and Santa Fe Counties have enacted the required ordinances), and

(2) modified gross income of less than $24,000.

This rebate is calculated as a percentage of the taxpayer's property tax liability and based on the taxpayer's modified gross income. The rebate amount cannot exceed $350, or $175 if married filing separately.

The State is reimbursed annually by the authorizing county for any low-income property tax rebates granted under this section.

Statutory Basis: 7-2-14(A) and 7-2-14.3 NMSA 1978

Intended Purpose: To ease the consumption tax burden for low-income taxpayers and to offset property taxes for those whose income is insufficient to cover their property taxes so that they are not forced out of their homes.

History: LICTR was originally enacted in 1972 and amended in 1973, 1974, 1975, 1977, 1978, 1981, 1986, 1987, 1990, 1992, 1994, and 1998. The low-income property tax rebate was originally enacted in 1994 and amended in 1997 and 2003.

Evaluation: It is important to combine different strategies to motivate successful transition out of poverty.

These tax programs reduce the fiscal impact of taxes previously paid, however the payout of the benefit is inversely related to the taxpayers' probable expense. If the goal of the program is to partially offset a low-income taxpayer's consumption tax (GRT) or property tax liability, then the amount of the benefit should more closely align to the probable expense.

Alternatively, the benefit can be uniformly apportioned and predicated upon the probable expense that all taxpayers would incur. The current statute is ambiguous regarding its intent.

To date tax reform discussions have focused more on revenue collection. However, a holistic approach will require consideration of tax expenditures and the efficacy of those programs.

Recommendations: None.

Reliability Factor: 1 - These rebates are separately reported. No estimation is required.

Fiscal Impact:

Rebate, Low Income Comprehensive Tax (LICTR)	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	257,525	250,865	245,107	237,801	214,544
	Expenditure (thousands)	$21,273	$20,457	$19,578	$18,834	$16,825

Rebate, Low Income Property	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	2,012	1,864	1,898	1,899	1,826
	Expenditure (thousands)	$620	$573	$588	$583	$564

LOW- AND MIDDLE-INCOME TAXPAYERS EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: An individual may claim an exemption equal to the number of exemptions claimed on their federal return multiplied by $2,500. The amount of the exemption is deducted from the individual's net income.

Statutory Basis: 7-2-5.8 NMSA 1978

Intended Purpose: The exemption reduces the tax liability of households with less than a specified threshold of modified gross income. This results in lower income households retaining more of their income.

History: Originally enacted in 2005 and amended in 2007.

The 2007 amendment increased the adjusted gross income threshold amounts for taxpayers eligible for the exemption.

Evaluation: This exemption excludes more than $2 billion from the tax base each year. The exemption amount phases out as adjusted gross income rises. Given that the savings rate among this population is relatively low, there is a high likelihood that this money is circulating throughout the New Mexico economy.

Recommendations: Although the numbers of eligible households claiming the exemption are significant, the income thresholds are currently defined by filing status and they do not adjust for inflation. A more accurate alternative may be to use the Federal poverty guidelines, published annually by the Department of Health & Human Services.

Reliability Factor: 1 – The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used. The differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Exemption, Low-Middle Income	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	602,192	592,248	584,754	580,437	533,345
	Expenditure (thousands)	$9,038	$8,856	$8,642	$8,576	$8,128

MEDICAL AND HEALTH CARE SERVICES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from payments by the U.S. government or any agency thereof for Medicare services received by certain medical practitioners and medical-related facilities, receipts of medical doctors and osteopathic physicians from payments by a third-party administrator of the federal TRICARE program, and receipts of a medical doctor or osteopathic physician from payments by or on behalf of the Indian Health Service of the U.S. Department of Health and HSD for the provision of medical and other health services to covered beneficiaries are deductible from gross receipts.

Statutory Basis: 7-9-77.1 NMSA 1978

Intended Purpose: To retain healthcare practitioners in the state. According to DOH and the Indian Affairs Department, the deduction would make it more profitable for medical providers to serve Native American populations in New Mexico as those communities face difficulties in recruiting health care practitioners due to below-average salaries.

History: Originally enacted in 1998, amended in 2000, 2003, 2007, 2014, and 2016.

Evaluation: Because medical services of this type are typically reimbursed based on pre-established rate schedules, health care providers would likely not be able to recoup the GRT, even if their services were subject to GRT.

Likewise, the out-of-pocket portion of the payment is also predetermined, leaving the provider unable to pass the burden of the tax on to the consumer. Unlike in previous versions of this report, this version shows the Department was able to obtain the amount of deductions as reported by taxpayers for fiscal years 2015 and 2016.

Recommendations: None.

Reliability Factor: 1 - This deduction is separately reported. No estimation is required, making this deduction more reliable than in previous years when the department used data from the Centers for Medicare & Medicaid Services in combination with the statewide average tax rate to calculate the cost of the deduction.

Fiscal Impact:

Medical and Health Care Services GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$1,218	$806	$851	$2,724	$2,440

MEDICAL CARE SAVINGS ACCOUNT EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: The interest earned on medical care savings accounts and money reimbursed to an employee for eligible medical expenses from those accounts or money advanced to the employee by the employer for eligible medical expenses are exempt from PIT.

Statutory Basis: 7-2-5.6 NMSA 1978

Intended Purpose: To incentivize the investment in medical care savings accounts.

History: Originally enacted in 1995.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 – The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Medical Care Savings Account Exemption from PIT	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	1,136	1,087	1,241	1,201	1,205
	Expenditure (thousands)	$95	$85	$91	$77	$75

MICROBREWER BEER AND SMALL WINERIES RATE DIFFERENTIAL FROM LIQUOR EXCISE TAX

Category: Highly Specialized Industry

Brief Description: Beginning in 2013, beer manufactured or produced by a microbrewer and sold in this state is taxed at a rate of $0.08 per gallon on the first 10,000 gallons sold and $0.28 per gallon on all gallons sold more than 10,000 gallons but fewer than 15,000 gallons. For all gallons sold 15,000 or more, the tax rate is $0.41 per gallon.

Until 2013, beer manufactured or produced by a microbrewer and sold in this state was taxed at a rate of $0.08 per gallon; beer produced by larger brewers was taxed at $0.41 per gallon.

Beginning in 2013, a tax of $0.10 per liter on the first 80,000 liters sold, $0.20 per liter on all liters sold over 80,000 liters but not over 950,000 liters, and $0.30 per liter on each liter sold over 950,000 liters but not 1.5 million liters, is imposed on wine manufactured or produced by a small winegrower and sold in New Mexico; larger winegrowers are subject to an excise tax of $0.45 per liter tax.

Prior to 2013, a tax of $0.10 per liter on the first 80,000 liters sold and $0.20 per liter on all liters sold over 80,000 liters but less than 950,000 liters, was imposed on wine manufactured or produced by a small winegrower and sold in New Mexico while larger winegrowers were subject to an excise tax of $0.45 per liter tax.

Statutory Basis: 7-17-5(A)(5) and 7-17-5(A)(6) NMSA 1978

Intended Purpose: Presumably to stimulate the microbrewery and small winery industry in New Mexico by reducing their tax expense.

History: Originally enacted in 1993 and amended in 1994, 1995, 1996, 1997, 2000, 2000 (2nd Special Session), 2008, and 2013.

The 2013 amendment decreased the tax rate on gallons of beer manufactured or produced by a microbrewer and sold between 10,000 and 15,000 barrels and reduced the tax rate on liters wine sold between 950,000 and 1.5 million.

Evaluation: Preliminary indicators, with respect to microbreweries and small wineries, suggest that this credit has been effective. According to information presented to the Legislature by the New Mexico Microbrewers Guild, the number of microbreweries in New Mexico has increased from 23 (with 33 locations) in 2013 to an anticipated 55 (with 70 locations) by 2016. Similarly, the Guild reports that brewery expansions resulted in $14 million in capital investment in New Mexico in 2015. In 2017 the number of microbrewery locations reported by the Guild has further increased to 82,

and qualifying amounts of beer and wine volumes have increased by an additional 14-17 percent over FY 2016. Expansion has continued during 2018 with the Guild now reporting 96 microbrewery locations in New Mexico. The New Mexico Wine Association currently shows 53 wineries and/or vineyards in the state.

Recommendations: None.

Reliability Factor: 1 - Qualifying beer and wine production is separately reported. No estimation is required.

Fiscal Impact:

Microbrewer Beer and Small Wineries Rate Differential from Liquor Excise Tax	**Fiscal Year**	2014	2015	2016	2017	2018
	Microbrewery Expenditure (thousands)	$363	$652	$733	$878	$1,058
	Small Winery Expenditure (thousands)	$473	$507	$495	$539	$542

MILITARY CONSTRUCTION SERVICES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from military construction services provided at New Mexico military installations located in Curry County or Otero County to implement a fighter aircraft pilot training mission project pursuant to contracts entered into with the United States Department of Defense are deductible from gross receipts.

The deduction provided in this section applies to reporting periods prior to July 1, 2022.

Statutory Basis: 7-9-106 NMSA 1978

Intended Purpose: To encourage the U.S. Department of Defense to relocate fighter aircraft squadrons from others states to a military installation in New Mexico.

History: Originally enacted in 2007 through report periods ending December 31, 2010. The deduction was amended in 2018 extending the reporting period to July 1, 2022 and changing the military project from special operations to fighter aircraft pilot training missions.

Evaluation: The deduction is now entering a new period of applicability given the 2018 legislative amendment to extend the reporting period. Previously the reporting period ended December 31, 2010.

Recommendations: Monitor if amended deduction produces intended purpose.

Reliability Factor: 1 - This deduction going forward is to be reported separately.

Fiscal Impact: None.

MILITARY TRANSFORMATIONAL ACQUISITION PROGRAMS GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from military transformational acquisition programs performing research and development, test, and evaluation services at New Mexico major range and test facility bases are deductible from gross receipts.

Statutory Basis: 7-9-94 NMSA 1978

Intended Purpose: To incentivize the location of military transformational acquisition programs at U.S. Air Force bases in New Mexico.

History: Originally enacted in 2005 with an expiration date of June 30, 2008.

Amended in 2006 to extend the expiration date to June 30, 2016.

Amended in 2015 to extend the expiration date to June 30, 2025.

Evaluation: A reversal of no taxpayers claiming this deduction has occured in FY2017.

Recommendations: None.

Reliability Factor: 1 – This deduction is separately reported.

Fiscal Impact: *Note: Data for FY2017-FY2018 have been redacted due to fewer than 3 taxpayers taking the deduction. No claims other years.*

Military Transformational Acquisition Programs GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	0	0	0	< 3	< 3
	Expenditure (thousands)	$0	$0	$0	-	-

NATURAL GAS
EXEMPTION FROM OIL AND GAS SEVERANCE TAX

Category: Highly Specialized Industry

Brief Description: Exempts natural gas that comes from a production restoration project for the first ten years after the restoration of production when the annual average price of WTI crude oil was less than $24 per barrel. Note the statute specifies a non-standard calendar of June through May when calculating the average annual price.

Statutory Basis: 7-29-4(B)(1) NMSA 1978

Intended Purpose: To incentivize the development of natural gas from a production restoration project when prices are low.

History: Originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: No wells have qualified for this incentive in the past six years due to the price of WTI crude oil exceeding $24 per barrel (exemption threshold). While it is unknown whether the price of WTI crude oil will drop below $24 per barrel, the production and market for natural gas has changed significantly during the history of this exemption. Enhanced extraction techniques have increased production and improved cost efficiencies. Natural gas exceeded coal in 2016 as the majority fuel for electricity generation in the United States. Other non-tax incentives such as infrastructure to transport natural gas to markets may be stronger determinants of production.

Recommendations: A review of this and other extraction tax expenditures should be initiated to reevaluate intended purpose and relevance in current market climate.

Reliability Factor: 1 –There have been no expenditures resulting from this exemption.

Fiscal Impact: None.

NATURAL GAS RATE DIFFERENTIAL FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The emergency school tax rate on natural gas is 4%, unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual taxable value of natural gas was equal to or less than $1.15 per thousand cubic feet in the previous calendar year, the tax rate on natural gas from a stripper well property is 2%.

When the average annual taxable value of natural gas was greater than $1.15 per thousand cubic feet but not more than $1.35 per thousand cubic feet in the previous calendar year, the tax rate on natural gas from a stripper well property is 3%.

Statutory Basis: 7-31-4(A)(6) and 7-31-4(A)(7) NMSA 1978

Intended Purpose: To incentivize high-cost, low-yield production when prices are low.

History: The section was originally enacted in 1959 and amended in 1963, 1983, 1993, 1999, and 2005.

Evaluation: Data reported in ONGARD and as of March 2018 in GenTax were used to determine the average taxable value of natural gas. No wells qualified for this rate differential for the time periods covered by this report due to that value exceeding $1.35 per MCF (rate differential threshold). While it is unknown whether the price of natural gas will drop below $1.35 per MCF, the production and market for natural gas has changed significantly during the history of this rate differential. Enhanced extraction techniques have increased production and improved cost efficiencies. Natural gas exceeded coal in 2016 as the majority fuel for electricity generation in the United States. Other non-tax incentives such as infrastructure to transport natural gas to markets may be stronger determinants of production.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There have been no expenditures resulting from this rate differential.

Fiscal Impact: None.

NATURAL GAS
RATE DIFFERENTIAL FROM OIL AND GAS SEVERANCE TAX

Category: Highly Specialized Industry

Brief Description: The oil and gas severance tax rate on natural gas is 3.75% unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual price of WTI crude oil was less than $24 per barrel in the previous year, the tax rate on natural gas from a well workover project is 2.45%. Note the statute specifies a non-standard calendar of June through May when calculating this average annual price.

When the average annual taxable value of natural gas was equal to or less than $1.15 per thousand cubic feet in the previous calendar year, the tax rate on natural gas from a stripper well property is 1.875%.

When the average annual taxable value of natural gas was greater than $1.15 per thousand cubic feet but not more than $1.35 per thousand cubic feet in the previous calendar year, the tax rate on natural gas from a stripper well property is 2.8175%.

Statutory Basis: 7-29-4(A)(4), 7-29-4(A)(6), and 7-29-4(A)(7) NMSA 1978

Intended Purpose: To incentivize high-cost, low-yield production when prices are low.

History: The section was originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: No wells have qualified for this incentive for the time periods covered by this report due to the price of WTI crude oil exceeding $24 per barrel. Also, the taxable value of natural gas (as reported by the ONGARD system and as of March 2018 in GenTax) has exceeded $1.35 per MCF (rate differential threshold). While it is unknown whether the price of natural gas will drop below $1.35 per MCF or if WTI crude oil will drop below $24 per barrel, the production and market for natural gas has changed significantly during the history of this rate differential. Enhanced extraction techniques have increased production and improved cost efficiencies. Natural gas exceeded coal in 2016 as the majority fuel for electricity generation in the United States. Other non-tax incentives such as infrastructure to transport natural gas to markets may be stronger determinants of production.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There were no expenditures resulting from this rate differential.

Fiscal Impact: None.

NEW MEXICO NATIONAL GUARD MEMBER PREMIUMS PAID FOR GROUP LIFE INSURANCE EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: Payment for a service members' group life insurance premium from the National Guard Service Member's Life Insurance Reimbursement Fund are exempt from PIT.

Statutory Basis: 7-2-5.10 NMSA 1978

Intended Purpose: To equalize the premiums of National Guard members with private premium plans.

History: Originally enacted in 2006.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

NM National Guard Member Life Insurance Premiums Exemption from PIT	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	1,176	1,110	1,173	1,225	1,131
	Expenditure (thousands)	$10	$16	$11	$15	$16

NEWSPAPER SALES
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from selling newspapers, except from selling advertising space, are deductible from gross receipts.

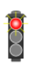
Statutory Basis: 7-9-64 NMSA 1978

Intended Purpose: To incentivize the growth and operations of newspaper companies.

History: Originally enacted in 1969.

Evaluation: According to the nationwide daily newspaper circulation data through 2016, year-over-year circulation continues to decrease. The average annual decrease in circulation for daily newspapers nationwide from 2011 to 2016 is about 5%. With the proliferation of digital mobile devices, this expenditure may not be enough to counter the market shift from print to electronic media.

Recommendations: None.

Reliability Factor:  3 - The News Media Alliance, formerly called the Newspaper Association of America, collects national annual newspaper paid circulation data and is aggregated by Statista, an online data website. New Mexico specific newspaper circulations for 2016 are used to benchmark the national numbers to annual New Mexico sales. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Newspaper Sales GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$8,900	$8,500	$7,900	$7,100	$6,500

NONATHLETIC SPECIAL EVENT AT NEW MEXICO STATE UNIVERSITY GRT DEDUCTION

Category: Citizen Benefits

Brief Description: Receipts from admissions to nonathletic special events held at the Pan American Center at New Mexico State University ("NMSU") are deductible from gross receipts.

Statutory Basis: 7-9-104 NMSA 1978

Intended Purpose: To bring nonathletic events to NMSU rather than having them go to El Paso, Texas.

History: Originally enacted in 2007 with an expiration of June 30, 2012.

Amended in 2012 to extend the expiration to June 30, 2017.

Amended in 2017 to extend the expiration to June 30, 2022.

Evaluation: According to NMSU, the vast majority of nonathletic events held at the Pan American Center would otherwise be held in various venues located in El Paso if it was not for the incentive generated by this deduction.

Recommendations: Note: In the 2017 session, this deduction was renewed for another 5 years and is now scheduled to expire on June 30, 2022.

Reliability Factor: 3 – Gross ticket sale figures provided by NMSU's Auxiliary Business Support Office were used to estimate the cost of this deduction. The deduction amount is multiplied by the Las Cruces GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Nonathletic Special Event at NMSU GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Claims	11	9	11	10	10
	Expenditure (thousands)	$130	$118	$206	$398	$147

NONPROFIT ELDERLY CARE FACILITY EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts of nonprofit entities from the operation of facilities designed and used for providing accommodations for retired elderly persons are exempt from GRT.

Statutory Basis: 7-9-16 NMSA 1978

Intended Purpose: Reduce the cost of caring for the elderly.

History: Originally enacted in 1969 and amended in 1970 and 1975.

Evaluation: According to data from HSD, there are 15 private, non-profit, non-tribal nursing facilities in the state. Between 2015 and 2017, revenue increased at these facilities by 3.8%, however no new facilities have begun operations. This expenditure must be evaluated in concert with other expenditures for medical facilities and non-profits.

Note also that these facilities are already exempt from GRT because of their non-profit status (statute 7-9-29 NMSA).

Recommendations: Repeal. These organizations already qualify for a GRT exemption based on their non-profit status. If future tax reform removes or diminishes that exemption, consider reinstating this exemption.

Reliability Factor: 3 - No direct filing data is available, but revenue data is available from HSD. As these facilities qualify for a GRT exemption due to their non-profit status, the impacts below are given as if the separate non-profit exemption did not exist. Data for 2016 is not yet available.

Fiscal Impact:

Nonprofit Elderly Care Facility Exemption from GRT	**Calendar Year**	2015	2016	2017
	Expenditure (thousands)	$9,075	-	$9,747

NONPROFIT ORGANIZATIONS
EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Purchases and receipts of an organization that was granted a tax exemption under Section 501(c)(3) or Section 501(c)(6) of the U.S. Internal Revenue Code are exempt from GRT if the receipts are not derived from an unrelated trade or business as defined in Section 513 of the U.S. Internal Revenue Code. 501(c)(3) organizations comprise the most commonly understood type of nonprofit entities: health care services, charities, churches, universities, scientific organizations, animal shelters, and others. 501(c)(6) organizations consist of business leagues and associations, chambers of commerce, boards of trade, and other similar organizations. With respect to both types of entities, a benefit or profit cannot pass to any member, owner, director, or officer.

Statutory Basis: 7-9-29 NMSA 1978

Intended Purpose: To eliminate the GRT burden on organizations that contribute to the overall social and economic welfare of their communities.

History: The exemption from GRT was originally enacted in 1970 and amended in 1983, 1988, and 1990.

The exemption from compensating tax was originally enacted in 1969 and amended in 1970, 1983, and 1990.

Evaluation: To increase precision and clarity, the Compensating Tax exemption for non-profits under 7-9-15 was separated from this expenditure because the non-profit GRT exemption under 7-9-29 is an entity exemption for all gross receipts a non-profit earns from selling goods or services barring income contribution.

Recommendations: None.

Reliability Factor: 4 - There are no direct data to estimate this exemption. Prior to FY 2016, TRD considered data from the National Center for Charitable Statistics which reported in August 2015 that of the 7,063 registered public charities and private foundations, the state received about $4 billion in total revenues over the preceding 24 months. TRD assumed that 50% of those would have been otherwise taxable gross receipts, resulting in an estimated deduction of about $2.4 billion or lost revenue of about $16.4 million over two years. According to GuideStar.org—a self-reporting data-collection website—there are about 2,802 nonprofit organizations registered in New Mexico. Of those, the average annual gross income reported in tax year 2015 obtained through financial information included in Form 990 is about $1.1 million. Further, research of public records that TRD performed during the 2016 2nd Special Session yielded the cost of this deduction to the general fund is of

about $68.4 million, based solely on publicly reported gross revenue numbers from Christus St. Vincent's and Presbyterian's 2013 IRS Forms 990.

Fiscal Impact:

Nonprofit Organizations Exemption from GRT	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$82,000	$85,000	$90,000	$92,000	$95,000

NONPROFIT ORGANIZATIONS FUNDRAISERS GRT DEDUCTION

Category: Citizen Benefits

Brief Description: Organizations exempt from federal income tax under Section 501(c) of the Internal Revenue Code (IRC) may deduct the receipts from two fund-raising events each calendar year. This deduction does not apply to 501(c)(3) organizations, as their receipts are exempt under Section 7-9-29 NMSA 1978. It does apply to other 501(c) organizations listed in the IRC, such as civic leagues (501(c)(4)), labor, agricultural and horticultural organizations (501(c)(5)), social, and recreational clubs (501(c)(7)), and fraternal associations (501(c)(8)). It should be noted that contributions these organizations receive are not gross receipts. This deduction applies to fundraising events, in which these organizations provide a good or service in order to generate funding for their missions.

Statutory Basis: 7-9-85 NMSA 1978

Intended Purpose: To allow these organizations to conduct fundraising events to support their missions without incurring GRT obligations.

History: Originally enacted in 1994.

Evaluation: None.

Recommendations: Clarify the law by excluding 501(c)(6) organizations that carry on chamber of commerce, visitor bureau, and convention bureau functions of the organization as their receipts are exempt under Section 7-9-29 NMSA 1978. This deduction specifically excludes 501(c)(3) organizations because their receipts are already exempt under Section 7-9-29 NMSA 1978.

Reliability Factor: 4 - The Internal Revenue Service (IRS) releases data for many nonprofits exempt from federal income tax who file an annual Form 990 Return. The National Center for Charitable Statistics has assembled IRS Form 990 data to report aggregate statistics by state. State level data is available for total revenue and total assets by nonprofits in each of the IRS subsections for 501(c)s. While fundraising event revenue is reported on IRS Form 990 returns, this detail is only aggregated at the national level. Calculating the national estimates of revenue from fundraising events as a percentage of total revenues, these estimates are applied to state level total revenue for 501(c) organizations listed in statute. The total estimated exemption amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Nonprofit Organizations Fundraisers GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$260	$270	$270	$270	$270

OFFICIATING AT NEW MEXICO ACTIVITIES ASSOCIATION EVENTS EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts from refereeing, umpiring, scoring, or other officiating at school events sanctioned by the New Mexico Activities Association are exempt from GRT.

Statutory Basis: 7-9-41.4 NMSA 1978

Intended Purpose: To reduce the cost of public education institution events that provide athletic opportunities for their students.

History: Originally enacted in 2009.

Evaluation: This exemption reduces the burden on taxpayers as officials would otherwise be required to register and file GRT for a relatively small amount of receipts.

Recommendations: None.

Reliability Factor: 4 - Officials' fees published annually by the New Mexico Activities Association are used to estimate the impact of this exemption. Given the number of high school teams and games or matches in an academic year, an estimate of receipts was aggregated and multiplied by the statewide average GRT rate. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Officiating at New Mexico Activities Association Events Exemption from GRT	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$110	$111	$112	$114	$114

OIL AND OTHER LIQUID HYDROCARBONS EXEMPTION FROM OIL AND GAS SEVERANCE TAX

Category:	Highly Specialized Industry
Brief Description:	Exempts oil and other liquid hydrocarbons that come from a production restoration project for the first ten years after the restoration of production when the annual average price of WTI crude oil was less than $24 per barrel. Note the statute specifies a non-standard calendar of June through May when calculating the average annual price.
Statutory Basis:	7-29-4(B)(2) NMSA 1978
Intended Purpose:	To incentivize the development of oil and other liquid hydrocarbon from a production restoration project when prices are low.
History:	Originally enacted in 1980 and amended in 1987, 1989, and 1992, 1995, 1999, and 2005.
Evaluation:	This exemption provides incentive for well restoration activity. No wells have qualified for this incentive in the past few years due to the price of WTI crude oil exceeding $24 per barrel (exemption threshold). While it is unknown whether the price of WTI crude oil will drop below $24 per barrel, the production of oil has changed significantly during the history of this exemption. Enhanced extraction techniques have increased production and improved cost efficiencies.
Recommendations:	A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.
Reliability Factor:	1 - There are no expenditures resulting from this exemption.
Fiscal Impact:	None.

OIL AND OTHER LIQUID HYDROCARBONS RATE DIFFERENTIAL FROM OIL AND GAS EMERGENCY SCHOOL TAX

Category: Highly Specialized Industry

Brief Description: The emergency school tax on oil and other liquid hydrocarbons is 3.15% unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual taxable value of oil was equal to or less than $15 per barrel in the calendar year preceding July 1 of the fiscal year in which the tax rate is imposed, the tax rate on oil and other liquid hydrocarbons that are removed from a stripper well is 1.58%.

When the average annual taxable value of oil in the previous calendar year was greater than $15 per barrel but not greater than $18 per barrel, the tax rate on oil and other liquid hydrocarbons that are removed from a stripper well is 2.36%.

Statutory Basis: 7-31-4(A)(4) and 7-31-4(A)(5) NMSA 1978

Intended Purpose: To incentivize the removal of oil and other liquid hydrocarbon from a stripper well when prices are low.

History: Originally enacted in 1959 and amended in 1963, 1983, 1993, 1999, and 2005.

Evaluation: This exemption provides incentive for well restoration activity. No wells have qualified for this incentive in the past few years due to the average annual taxable value of crude oil exceeding $18 per barrel (rate differential threshold). While it is unknown whether the average annual taxable value of oil will drop below $18 per barrel, the production of oil has changed significantly during the history of this exemption. Enhanced extraction techniques have increased production and improved cost efficiencies.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There are no expenditures resulting from this rate differential provision.

Fiscal Impact: None.

OIL AND OTHER LIQUID HYDROCARBONS
RATE DIFFERENTIAL FROM OIL AND GAS SEVERANCE TAX RATE

Category: Highly Specialized Industry

Brief Description: The oil and gas severance tax rate on oil and other liquid hydrocarbons is 3.75% unless the product is taxed pursuant to a different rate as provided in statute.

When the average annual price of WTI crude oil was less than $28 per barrel in the previous year, the tax rate on oil and other liquid hydrocarbons from a qualified enhanced recovery project is 1.875%. Note the statute specifies a non-standard calendar of June through May when calculating the average WTI price.

When the average annual price of WTI crude oil was less than $24 per barrel in the previous year, the tax rate on oil and other liquid hydrocarbons from a well workover project is 2.45%. Note the statute specifies a non-standard calendar of June through May when calculating the average WTI price.

When the average annual taxable value of oil was equal to or less than $15 per barrel in the previous calendar year, the tax rate on oil and other liquid hydrocarbons from a stripper well property is 1.875%.

When the average annual taxable value of oil was greater than $15 per barrel but not more than $18 per barrel in the previous calendar year, the tax rate on oil and other liquid hydrocarbons from a stripper well property is 2.8125%.

Statutory Basis: 7-29-4(A)(3), 7-29-4(A)(5), 7-29-4(A)(8), and 7-29-4(A)(9) NMSA 1978

Intended Purpose: To incentivize high cost production when prices are low.

History: Originally enacted in 1980 and amended in 1987, 1989, 1992, 1995, 1999, and 2005.

Evaluation: No wells have qualified for this incentive in the past few years due to the price of WTI crude oil exceeding $28 per barrel and the average annual taxable value of oil exceeding $15 per barrel (rate differential thresholds). While it is unknown whether the average annual taxable value of oil will drop below $18 per barrel or WTI average annual prices will be less than $28 per barrel, the production of oil has changed significantly during the history of this exemption. Enhanced extraction techniques have increased production and improved cost efficiencies.

Recommendations: A review of this and other extraction tax expenditures should be initiated to determine intended purpose and relevance in current market climate.

Reliability Factor: 1 - There are no expenditures resulting from this rate differential provision.

Fiscal Impact: None.

ORGAN DONATION
DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount not to exceed $10,000 of organ donation-related expenses, including lost wages, lodging expenses, and travel expenses, incurred during the taxable year by the taxpayer or the taxpayer's dependent as a result of the taxpayer's or dependent's donation of a human organ to another person for transfer of that human organ to the body of another person.

Statutory Basis: 7-2-36 NMSA 1978

Intended Purpose: To help remove obstacles that prevent people from making living organ donations by reducing the associated financial losses.

History: Originally enacted in 2005.

Evaluation: While factors like blood type serve as an unchangeable barrier to donating organs, for those who are matches, this credit helps to offset related expenses.

Recommendations: None.

Reliability Factor: 1 – The deduction amounts for each taxpayer claiming this deduction were computed, making this data more reliable than in past years, when an average rate for all taxpayers was used. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Organ Donation Deduction	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	74	70	60	70	79
	Expenditure (thousands)	$2.5	$3.4	$2.5	$2.8	$2.5

PENALTY PURSUANT TO SECTION 7-1-71.2 NMSA 1978 CREDIT AGAINST GRT, COMPENSATING TAX AND WITHHOLDING TAX

Category: Health Care

Brief Description: Prior to July 1, 2010, taxpayers who paid the double local option penalty in effect prior to July 1, 2007— imposed for incorrectly reporting food and medical GRT deductions created in 2004—could claim this credit. The credit is equal to the amount of the penalty paid.

Statutory Basis: 7-9-105 NMSA 1978

Intended Purpose: To refund penalties paid for incorrectly reporting the food deduction [13] or the health care practitioner services deduction[14].

History: Originally enacted in 2007.

Evaluation: This credit has no current effect as all claims were submitted prior to July 1, 2010.

Recommendations: Repeal. The credit has not been available since July 1, 2010.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: No possible fiscal impact.

[13] Section 7-9-92 NMSA 1978
[14] Section 7-9-93 NMSA 1978

PERSONS ONE HUNDRED AND OLDER EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: The income of an individual who is (1) a natural person, (2) one hundred years of age or older, and (3) not a dependent of another individual is exempt from PIT.

Statutory Basis: 7-2-5.7 NMSA 1978

Intended Purpose: To eliminate the income of aged persons from the tax base and reduce the administrative and financial burden on this aging population.

History: Originally enacted in 2002.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 – The exemption is reported. Unmarried centenarians are not required to file a return unless they want to claim other rebates and credits. Some estimation is required. Differences between annual expenditure reports are attributed to taxpayers filing late or amended returns.

Fiscal Impact:

Over 100 Income Exemption	Tax Year (Calendar)	2015	2016	2017
	Claims	108	118	130
	Expenditure (thousands)	$75	$97	$103

PERSONS SIXTY-FIVE AND OLDER OR BLIND EXEMPTION FROM PIT AND COMPREHENSIVE TAX REBATE

Category: Citizen Benefits

Brief Description: An individual who is 65 years or older or who is blind may claim an exemption from PIT based on a sliding scale (not to exceed $8,000).

An individual who is 65 years or older may claim additional exemptions for the low-income comprehensive tax rebate and so qualify for a higher rebate.

Statutory Basis: 7-2-5.2 and 7-2-14(C) NMSA 1978

Intended Purpose: To reduce the financial burden on those who are likely to be living on fixed incomes.

History: The PIT exemption was originally enacted in 1985 and amended in 1987.

The comprehensive tax rebate was originally enacted in 1972 and amended in 1973, 1974, 1975, 1977, 1978, 1981, 1986, 1987, 1990, 1992, 1994, and 1998.

Evaluation: The number of claims has remained relatively constant over the last four fiscal years, while the amount of the expenditure has decreased due to the sliding scale amount of the exemption. Both the number of claims and expenditures may increase in keeping with trends toward an older population.

Recommendations: None.

Reliability Factor: 1 -Information is reported separately for the rebate. No estimation is required. The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used. The differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Over 65 Additional Exemptions Expense	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	99,790	97,955	100,912	101,624	93,470
	Expenditure (thousands)	$1,183	$1,163	$1,131	$1,136	$1,076

Over 65 Property Tax Rebate	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	16,892	16,779	16,401	15,947	15,114
	Expenditure (thousands)	$3,391	$3,421	$3,364	$3,299	$3,160

PHYSICIAN PARTICIPATING IN CANCER TREATMENT CLINICAL TRIALS CREDIT AGAINST PIT

Category: Health Care

Brief Description: A licensed oncologist who practices in rural New Mexico may claim a credit of $1,000 for each patient participating in a cancer clinical trial under the oncologist's supervision. Rural New Mexico is defined as a class-B county in which no municipality has a population over 60,000 according to the most recent decennial census. The credit is capped at $4,000 per physician per year and the credit may only be claimed for the taxable year in which the physician participated as an investigator in a clinical trial.

This credit was applicable starting in taxable year January 1, 2012 and ending before January 1, 2015.

Statutory Basis: 7-2-18.27 NMSA 1978

Intended Purpose: To encourage physicians in New Mexico to participate as clinical trial investigators by performing clinical trials of new cancer treatments in New Mexico and making cancer clinical trials more readily available to cancer patients in the state.

History: Originally enacted in 2011 legislative session (SB 282, § 2).

Evaluation: This credit was effective for the taxable years 2012 through 2014. During that time, there was never an application for this credit received by TRD.

Recommendations: The time period that this credit could have been claimed has expired. As the original bill did not have a delayed repeal this statute is still in law. It is recommended that this credit be repealed.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. No taxpayer may claim this credit for tax years beginning after December 31, 2014.

Fiscal Impact: None.

PRESCRIPTION DRUGS AND OXYGEN GRT AND GGRT DEDUCTION

Category: Health Care

Brief Description: Receipts from the sale of prescription drugs, oxygen, and oxygen services provided by a licensed Medicare durable medical equipment provider are deductible from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-73.2 NMSA 1978

Intended Purpose: To reduce the effective cost of prescription drugs and oxygen as a public welfare mechanism.

History: Originally enacted in 1998 and amended in 2003 and 2007.

Evaluation: This deduction removes the gross receipts tax burden from sellers who would otherwise pass it on to consumers of these medically necessary goods.

Recommendations: None.

Reliability Factor: 3 - State specific data published by the Kaiser Family Foundation on total retail sales of prescription drugs was used to calculate this deduction. (Data sources for oxygen and oxygen services have yet to be ascertained.) The more than two-fold increase in the estimated cost from FY2016 to FY2017 can likely be associated with the Affordable Care Act which has increased insurance coverage under the Medicaid Program and for individuals. As the newly insured seek and establish care with physicians and other medical providers, statewide prescription drug sales should increase. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Prescription Drugs and Oxygen GRT and GGRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$65,000	$68,000	$74,000	$165,000	$170,000

PRESERVATION OF CULTURAL PROPERTY CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Taxpayers may take a credit on a PIT or CIT return of 50% of the cost of restoring, rehabilitating, or preserving properties listed on the New Mexico Register of Cultural Properties.

The credit may not exceed $25,000 unless the property is located within a designated arts and cultural district. The credit may not exceed $50,000 for properties located within an arts and cultural district.

The credit is not refundable but may be carried forward up to four years.

Statutory Basis: 7-2-18.2 and 7-2A-8.6 NMSA 1978

Intended Purpose: To encourage the restoration, rehabilitation and preservation of cultural properties.

History: The PIT credit was originally enacted in 1984 and amended in 2007.

The CIT credit was originally enacted in 1984 and amended in 1986 and 2007.

Evaluation: Claims of this credit remains consistent. The credit is non-refundable, so a taxpayer must have enough tax liability to take the credit.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Preservation of Cultural Property Credit	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	75	66	63	69	42
	Expenditure (thousands)	$185	$235	$180	$200	$107

PRODUCTION OR STAGING OF PROFESSIONAL CONTESTS GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from producing or staging professional boxing, wrestling, or martial arts contests that occur in New Mexico, including receipts from ticket sales and broadcasting, are deductible from gross receipts.

Statutory Basis: 7-9-107 NMSA 1978

Intended Purpose: To incentivize professional boxing, wrestling, and martial arts contests to take place in New Mexico.

History: Originally enacted in 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 - The New Mexico Regulations and Licensing Department provides annual data on the number of sanctioned events and associated fees. A calculation of associated gross receipts and foregone revenue is computed. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Production or Staging of Professional Contests GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$120	$103	$97	$77	$95

PUBLICATION SALES
GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from publishing newspapers or magazines are deductible from gross receipts.

Statutory Basis: 7-9-63 NMSA 1978

Intended Purpose: To incentivize growth and operations of publishing companies in the state.

History: Originally enacted in 1969.

Evaluation: With the proliferation of digital mobile devices, this expenditure may not be enough to counter the market shift from print to electronic media.

Recommendations: None.

Reliability Factor: 2 - Taxpayer reported deductions filed by publishing-related NAICS sectors were used to estimate the cost of this deduction. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Tax Increment for Development District Dedicated Increments	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$250	$240	$210	$220	$221

PURSES AND JOCKEY RENUMERATION AT NEW MEXICO RACETRACKS EXEMPTION FROM GRT

Category: Highly Specialized Industry

Brief Description: The receipts of horsemen, jockeys, and trainers from race purses at New Mexico horse racetracks subject to the jurisdiction of the state racing commission are exempt from GRT.

Statutory Basis: 7-9-40(A) NMSA 1978

Intended Purpose: To reduce the tax burden of horsemen, jockeys, and trainers.

History: Originally enacted in 1970 and amended in 1971, 1985, and 1989.

Evaluation: Although horse racing attendance and the total number of horse racing events are down statewide and nationwide, annual purses have not decreased in New Mexico.

Recommendations: None.

Reliability Factor: 3 – Yearly data on races and purse sizes tracked by The Jockey Club in their annual New Mexico Fact Book was combined with an industry standard rate of 10% of purses going each to jockeys and trainers. The 2018 New Mexico Fact Book has data through 2017 used in the estimations below. The FY2018 cost was estimated based on the annual average number of races and purse per race in the last three years. The exemption amount is multiplied by the statewide average GRT rate for each year to estimate the cost. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Purses and Jockey Remuneration at NM Racetracks Exemption from GRT	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	\$403	\$401	\$382	\$379	\$389

RAILROAD EQUIPMENT, AIRCRAFT, AND SPACE VEHICLES EXEMPTION FROM COMPENSATING TAX

Category:	Highly Specialized Industry
Brief Description:	The use of railroad locomotives, trailers, containers, tenders or cars procured or bought for use in railroad transportation; the use of commercial aircraft bought or leased primarily for use in the transportation of passengers or property for hire in interstate commerce; and the use of space vehicles for transportation of persons or property in, to, or from space are exempt from compensating tax.
Statutory Basis:	7-9-30 NMSA 1978
Intended Purpose:	To reduce the cost of railroad transportation, aircraft transportation, and space transportation; potentially to comply with the preemption doctrine.
History:	Originally enacted in 1969 and amended in 1988 and 2003.
Evaluation:	None.
Recommendations:	None.
Reliability Factor:	No data are available to estimate the fiscal impact.
Fiscal Impact:	Unknown.

REAL ESTATE TRANSACTIONS GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from real estate commissions on the sale of real property which is subject to the GRT (new construction under Section 7-9-53(A) NMSA 1978) are deductible from gross receipts. Typically, brokerage commissions are deductible from gross receipts when the underlying sales are not subject to tax. With respect to new construction, the part of the sale that reflects the value of the newly constructed improvements is taxable, but the value of the underlying real estate is deductible.

Statutory Basis: 7-9-66.1 NMSA 1978

Intended Purpose: Incentivize real estate construction in the state.

History: Originally enacted in 1984 and amended in 1990.

Evaluation: None.

Recommendations: None.

Reliability Factor: 3 - Yearly valuations of new residential construction in each of the counties is tracked by DFA. This sum was multiplied by the national ratio of the amount of properties which are built to be sold ("on spec") determined from US Census data. It is assumed that little to no commercial real estate is constructed and then sold in such a way. A commission rate of 6% was assumed and a yearly statewide average GRT rate applied to that.

Fiscal Impact:

Real Estate Transactions GRT Deduction	**Calendar Year**	2015	2016	2017
	Expenditure (thousands)	$1,000	$1,600	$1,300

RENEWABLE ENERGY PRODUCTION CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers are allowed a credit against PIT and CIT for producing electricity using solar light or heat, wind, or biomass. The credit only applies to taxpayers that hold title to a facility that generates the electricity for sale to third parties or to taxpayers who lease such property under an industrial revenue bond agreement.

The amount of the credit is one cent per kilowatt-hour (kWh) up to 400,000 megawatt-hours (MWh) annually per taxpayer for wind- or biomass-derived electricity. The aggregate cap for all wind projects is set at 2 million MWh.

The amount of the credit ranges from one and a half cents to four cents per kWh up to 200,000 MWh annually per taxpayer for solar-light-derived or solar-heat-derived electricity, depending on the consecutive taxable year for which the credit is being claimed. The aggregate cap for all solar projects is set at 500,000 MWh.

The wind aggregate cap maximized at 2 million MWh represents total annual credit payments of $20 million. The solar credit varies by year, on average the yearly credit is $0.0275 per kWh. The solar credit ranges from $0.015 in the first year of production to $0.04 in the sixth year of production, down to $0.02 in the tenth year. Whenever the 500,000 MWh are used, the average total annual credit is $13.75 million.

A qualified taxpayer is eligible for the renewable energy production tax credit for a maximum of ten consecutive years, beginning on the date the qualified energy generator begins producing electricity.

Statutory Basis: 7-2-18.18 and 7-2A-19 NMSA 1978

Intended Purpose: To encourage the development of renewable energy generating facilities in New Mexico. If the renewable facilities replace coal or natural gas-fired facilities, their increased use will assist the state in reducing emissions associated with its electricity supply, including carbon dioxide and other pollutants regulated by the EPA.

History: The PIT credit was originally enacted in 2007. The CIT credit was originally enacted in 2002 and amended in 2003, 2005 and 2007.

Evaluation: The mechanics of implementation limit the number of taxpayers eligible to claim this credit. There is a queue of taxpayers seeking to claim this credit, but due to production limits are not fully qualified to claim the credit.

For those who began producing before 2008, the credit is not refundable, but may be carried forward for five years.

The taxpayer that holds title to a renewable energy production facility is eligible to claim the credit. Consequently, this credit is frequently used to engage in "tax credit financing" of renewable energy production facilities. The credit may be allocated without regard to proportional ownership interest. Thus, many renewable energy production facilities are structured as pass-through entities so that this credit can be passed-through to a financing owner.

Recommendations: The state should make an effort to determine the cost-effectiveness of this credit before the expiration date is reached. Generation costs of renewable facilities have fallen sharply in recent years. According to a 2017 survey by Scientific American, many wind-powered facilities now produce for as little as 2 cents per kWh, making the current credit rate equal to 100% of the value of the power. This is an unusually high rate of subsidy when compared with other incentives offered by the State. If wind power is sufficiently competitive with other power sources, it may not need a subsidy at this level in order to continue to increase its share of the State's electricity generation market.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Credit, Renewable Energy Production	**Tax Year (Calendar)**	2013	2014	2015	2016
	Claims	18	19	19	14
	Expenditure (thousands)	$13,913	$15,075	$18,807	$15,093

Fiscal impacts for tax year 2017 are not yet available as returns are still being processed. The eligibility period for this credit is limited to facilities that first generated electricity on or before January 1, 2018. Given the ten-year period for claiming credits, tax liabilities will be reduced under this program through fiscal year 2027.

RESEARCH AND DEVELOPMENT SMALL BUSINESS CREDIT AGAINST GRT OR FIFTY PERCENT CREDIT AGAINST WITHHOLDING TAX

Category: Economic Development

Brief Description: A qualified research and development small businesses may claim a credit equal to the sum of all gross receipts or 50% of withholding taxes owed to New Mexico for the reporting period in which the business qualifies for the credit.

A qualified business is a corporation, general partnership or similar entity with 25 or fewer employees, with annual revenues under $5 million, and whose qualified research and development expenditures for the prior 12 months was equal to at least 20% of total expenditures for those calendar months.

Statutory Basis: 7-9H-1 *et seq.* NMSA 1978 (repealed).

Intended Purpose: To incentivize the foundation and expansion of small research and development businesses.

History: Originally enacted in 2005 to be effective against GRT and compensating tax with an expiration date of June 30, 2009. The credit was not extended prior to its expiration date.

Reenacted in 2011, with an expiration date of June 30, 2015 removed compensating tax, and to reduce the withholding tax credit to 50%.

Evaluation: This credit expired for a second time on June 30, 2015 and was underutilized. Its relationship to similar credits and deductions should be studied to understand how they interact. Alternative approaches to stimulating small businesses critical to the modern economy, such as research and development business, should be explored.

Recommendations: Repeal. The credit has expired.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None.

RURAL HEALTH CARE PRACTITIONER CREDIT AGAINST PIT

Category: Health Care

Brief Description: Licensed doctors, osteopathic physicians, dentists, clinical psychologists, podiatrists, and optometrists who provide health care services in New Mexico in a rural health care, underserved area in a taxable year may claim a credit of up to $5,000 against PIT.

Licensed dental hygienists, physician assistants, certified nurse midwives, certified registered nurse anesthetists, certified nurse practitioners, and clinical nurse specialists who provide health care services in New Mexico in a rural health care, underserved area in a taxable year may claim a credit of up to $3,000 against PIT.

To qualify for the full credit a practitioner must provide health care for 2,080 hours at a practice site in an approved area. If the practitioner provided health care for at least 1,040 hours, the practitioner is eligible for 50% of the credit.

Statutory Basis: 7-2-18.22 NMSA 1978

Intended Purpose: To improve access to health care in rural or underserved areas of the state by providing a tax benefit to health care practitioners who work in those areas.

History: Originally enacted in 2007.

Evaluation: Except for a slight decrease in FY2013, the number of claims increased steadily between FY2011 and FY2015. This increase may be an indication that this credit is an incentive for practitioners to move to rural areas. A report by the New Mexico Healthcare Workforce Commission indicates that while “financial incentives such as tax credits have been important recruitment and retention tools,” there continues to be a shortage of physicians in many rural parts of the state. (New Mexico Health Care Workforce Committee Report, October 1, 2014, pg. 4).

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Credit, Rural Healthcare Practitioner	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	1748	2042	1976	1971	1707
	Expenditure (thousands)	$6,572	$6,683	$6,500	$6,596	$5,597

RURAL JOB
CREDIT AGAINST MODIFIED COMBINED TAX, PIT, AND CIT

Category: Economic Development, Workforce Development

Brief Description: Eligible employers may earn the rural job tax credit for each qualifying job created after July 1, 2000, applying it to GRT (less local option GRT), compensating tax, withholding tax, PIT, or CIT.

An eligible employer is one whom EDD has approved for Job Training Incentive Program assistance.

A qualifying job means a job filled by an eligible employee for 48 weeks in a 12-month qualifying period.

The total credit authorized is 25% of the first $16,000 of wages paid if the job is performed or based in a Tier 1 Area and 12.5% of the first $16,000 of wages paid if the job is performed or based in a Tier 2 Area. However, the credit is taken in annual increments: 6.25% of the first $16,000 in wages paid over four qualifying periods (years) if the job is performed at a location in a Tier 1 Area; 6.25% of the first $16,000 in wages paid over two qualifying periods if the job is performed at a location in a Tier 2 Area.

Statutory Basis: 7-2E-1.1 NMSA 1978

Intended Purpose: To encourage businesses to expand into rural areas of the state.

History: Originally enacted in 2007, the credit was amended in 2013 to tighten the definition of qualifying jobs and to clarify the definition of wages.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 – Although this credit is separately reported, its reliability has been temporarily moved from 1 to 2 because of a certain issue within the reporting mechanism, which is currently under review by the Department's Audit and Compliance Division (ACD). Therefore, this expenditure requires an adjustment based on recommendation provided by ACD.

Fiscal Impact:

	Tax Year (Calendar)	2013	2014	2015	2016	2017
Rural Jobs Credit	**Claims**	11	57	80	47	3
	Expenditure (thousands)	$122	$2,498	$4,992	$483	$1,088

SALE AND USE OF AGRICULTURAL IMPLEMENTS, FARM TRACTORS, AIRCRAFT, AND MOTOR VEHICLES THAT DON'T HAVE TO BE REGISTERED
GRT AND COMPENSATING TAX DEDUCTION

Category:	Highly Specialized Industry
Brief Description:	(A) 50% of the receipts from selling, or of the value of, farm tractors and agricultural implements when used by persons engaged in the business of farming or ranching, are deductible from gross receipts and from the total value before computing compensating tax. 50% of the receipts from selling, or of the value of, vehicles not required to be registered under the Motor Vehicle Code are deductible from gross receipts and from the total value before computing compensating tax. 50% of the receipts from selling, or of the value of, aircraft not bought or leased primarily for use in the transportation of passengers or property for hire in interstate commerce are deductible from gross receipts and from the total value before computing compensating tax. (B) Receipts of an aircraft manufacturer or affiliate from selling aircraft, or from selling aircraft flight support, pilot training or maintenance training services are deductible from gross receipts. (C) Receipts from selling aircraft parts or maintenance services for aircraft or aircraft parts are deductible from GRT.
Statutory Basis:	7-9-62 and 7-9-77 NMSA 1978
Intended Purpose:	To incentivize agricultural activities by reducing the effective cost of agricultural implements and farm tractors. To incentivize the development of the aircraft industry in New Mexico by reducing related costs of selling and using aircraft for other than transportation of passengers or property for hire in intrastate commerce.
History:	The GRT deduction was originally enacted in 1969 and amended in 1975, 1998, 2000, 2007, and 2014. The 2014 amendment expanded the deduction to allow any entity selling aircraft parts or maintenance services for aircraft or aircraft parts to take the deduction starting July 1, 2015. The compensating tax deduction was originally enacted in 1966 and was amended in 1969, 1975, 1988, and 1998.
Evaluation:	To the extent that the agricultural implements and aircraft are used in the production of agricultural goods intended for sale, this deduction could be viewed as reducing the effects of pyramiding.

From FY2015 forward, taxpayers wishing to take this deduction will be required to separately state the amount deducted. However, because this section contains several different deductions, separating each subsection from the whole is not possible.

Recommendations: None.

Reliability Factor: 2 - This estimate is based on reported deductions from selected NAICS industry groups, calculated at the statewide average effective tax rate.

Fiscal Impact:

Sale and Use of Agricultural Implements, Farm Tractors, Aircraft, and Motor Vehicles that Don't Have to be Registered GRT and Compensating Tax Deduction	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$7,679	$8,406	$8,116	$8,777	$8,900

SALE OF CERTAIN SERVICES TO AN OUT-OF-STATE BUYER GRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from performing a service in New Mexico are deductible from gross receipts if the sale of the service is made to an out-of-state buyer. To qualify for the deduction, the product of the service must be delivered to the buyer outside of New Mexico and be initially used by the buyer outside of New Mexico.

The buyer must present an appropriate nontaxable transaction certificate or other evidence acceptable to the TRD Secretary.

Statutory Basis: 7-9-57 NMSA 1978

Intended Purpose: To encourage service exportation by equalizing tax treatment with out-of-state service providers, most of which are not subject to a sales tax on services.

History: Originally enacted in 1969 and amended in 1973, 1977, 1983, 1988, 1989, 1998, and 2000.

Evaluation: None.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact.

Fiscal Impact: Unknown.

SALE OF FOOD AT RETAIL FOOD STORES GRT DEDUCTION AND HOLD HARMLESS DISTRIBUTION

Category: Citizen Benefits

Brief Description: Receipts from qualifying food sales at retail food stores as defined under the federal food stamp program are deductible from gross receipts.

The deduction is required to be separately stated by the taxpayer.

The original legislation enacted provisions in the Tax Administration Act states that the revenues of municipal and county governments would be held harmless from any lost revenue resulting from the deduction.

Statutory Basis: 7-9-92, 7-1-6.46 and 7-1-6.47 NMSA 1978

Intended Purpose: To reduce the burden of taxing food.

History: The GRT deduction was originally enacted in 2004 and has not been amended.

The hold harmless provision was originally enacted in 2004 and was amended in 2006, 2007 and 2013. The 2013 amendment phased-out the hold harmless distribution to larger counties and municipalities over a 15-year period starting July 1, 2015. During the 2016 2nd special session, the statute was amended to add a penalty for incorrectly filing for the food and medical deductions that result in hold harmless distributions instead of other exemptions or deductions which must be taken first. The penalty is equal to 20% of the value of the hold harmless distribution resulting from the incorrect deduction.

Evaluation: As evidenced by the size of the GRT deduction, this reduces the costs of food. With the hold harmless provision and the loss of the revenue being made up through other tax burdens, this reduction has a significant cost to both the General Fund and the taxpayers it benefits.

Recommendations: None.

Reliability Factor: 1 - This deduction is separately reported. The estimate reflects the amounts of GRT revenue forgone by multiplying the GRT deduction amounts by the statewide average GRT rate for each year. The hold-harmless is reported separately and no estimation is required.

Fiscal Impact:

Sale of Food at Retail Food Stores GRT Deduction and Hold Harmless Distribution	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure from Hold Harmless Distributions (thousands)	$107,064	$107,847	$105,175	$94,342	$101,108
	Expenditure from Deduction (thousands)	$140,158	$138,787	$142,781	$137,145	$149,357

SALE OF SOFTWARE DEVELOPMENT SERVICES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from the sale of software development services that are performed in a rural area by an eligible software company are deductible from gross receipts. A rural area is anywhere except an incorporated municipality with a population of more than 50,000.

Statutory Basis: 7-9-57.2 NMSA 1978

Intended Purpose: To stimulate new business development in rural areas.

History: Originally enacted in 2002.

Evaluation: It is difficult to determine whether this deduction is the cause of any expansion in the targeted locations or industries, but, based on TRD's estimate methodology, the amount of the applicable deductions has increased significantly in recent years.

Recommendations: None.

Reliability Factor: 2 - Gross receipts deductions for taxpayers classified as software publishers and computer programmers reported outside of incorporated municipalities are assumed to fall. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Sale of Software Development Services GRT Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$1,480	$2,240	$2,357	$2,474	$2,598

SALE OF TEXTBOOKS IN CERTAIN BOOKSTORES EXEMPTION FROM GRT

Category: Citizen Benefits

Brief Description: Receipts of certain bookstores from selling textbooks and other materials required for courses at a public post-secondary educational institution to a student enrolled at the institution are exempt from GRT. Only bookstores located on the campus of the institution and operated pursuant to a contractual agreement with the institution are eligible.

Statutory Basis: 7-9-13.4 NMSA 1978

Intended Purpose: To reduce the cost of educational materials to those attending higher educational institutions.

History: Originally enacted in 2002.

Evaluation: While the cost of textbooks is only one component of the overall cost of a college education, the exemption provides some relief.

Recommendations: Consider expanding the exemption so that it is not limited to bookstores operated by a post-secondary education institution. Off-campus school bookstores frequently stock required textbooks and materials for university courses.

Reliability Factor: 4 - Using survey results from The National Association of College Stores, an estimate of the cost of required course materials has been applied for the 2018 TER. Enrollment numbers for public post-secondary institutions, reported by the New Mexico Higher Education Department, in combination with the cost of required course materials, calculates an aggregate total cost across all public intuitions. GRT rates by institution location were used to calculate foregone revenue. Declining enrollments and use of technology to access course materials contribute to the downward trend in the exemption amount. New Mexico public universities and colleges have collectively had an average annual 3.7% drop in enrollment over the last five years. Student behavior also has changed as students access course material electronically, buy books on-line, and rent textbooks. The estimated impact amount includes both state and local revenue.

Fiscal Impact:

Sale of Textbooks in Certain Bookstores Exemption from GRT	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$5,300	$4,500	$4,800	$4,700	$3,800

SALES TO NONPROFIT ORGANIZATIONS
GRT, GGRT, AND COMPENSATING TAX DEDUCTION

Category: Citizen Benefits

Brief Description: Gross receipts from selling tangible personal property to 501(c)(3) organizations for use in tax exempt functions, and gross receipts from the sale of construction materials to a 501(c)(3) organization formed for the purpose of providing homeownership opportunities to low-income families are deductible from gross receipts and governmental gross receipts. Also, out-of-state purchases of an organization that was granted a tax exemption under Section 501(c)(3) or Section 501(c)(6) of the U.S. Internal Revenue Code are exempt from the Compensating Tax so long as the receipts are not derived from an unrelated trade or business as defined in Section 513 of the U.S. Internal Revenue Code.

Statutory Basis: 7-9-60 and 7-9-15 NMSA 1978

Intended Purpose: To subsidize the activities of certain types of nonprofit entities.

History: Originally enacted in 1953, amended in 1969, reenacted in 1970, and amended in 1983, 1990, 1992, 1995, 2001, and 2007, and 2018

Evaluation: This tax expenditure provides government support to nonprofit entities in the form of reduced tax burden.

Recommendations: None.

Reliability Factor: 4 - No direct data with which to estimate the impact of this deduction exists. The estimate shows an updated methodology compared to the *2015 Tax Expenditure Report*. This version, takes into account the average gross income of a sample of 2,802 nonprofit organizations in New Mexico obtained through GuideStar.org — a self-reporting web-based database. It is assumed that a portion of the gross income in the sample would be used for the purposes of this deduction. The deduction amount is then multiplied by the statewide average GRT rate for FY2014 – FY2018 to estimate the cost using 50% of the gross income data as reported through Form 990 in federal income tax returns for each year available. This estimate does not take into account the split between GRT and Compensating tax deductions.

Fiscal Impact:

Sales to Nonprofit Organizations GRT, GGRT, and Compensating Tax Deduction	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$15,000	$15,000	$15,000	$15,000	$15,000

SALES TO QUALIFIED FILM PRODUCTION COMPANY GRT AND GGRT DEDUCTION

Category: Economic Development, Industry-focused Stimulus

Brief Description: Receipts from selling or leasing property to, and from performing services for, a qualified production company are deductible from gross receipts or from governmental gross receipts.

The buyer (a film production company) must present a nontaxable transaction certificate (NTTC) to the seller and can only deliver one with respect to production costs.

This deduction cannot be used in conjunction with the film production tax credit as described in Section 7-2F-1(L).

Statutory Basis: 7-9-86 NMSA 1978

Intended Purpose: To incentivize operations of the film industry and film productions in New Mexico.

History: Originally enacted in 1995 and amended in 2003.

Evaluation: None.

Recommendations: Repeal. This deduction cannot be claimed by a film production company if they are going to claim the film production tax credit (Section 7-2F-1 *et seq.* NMSA 1978). Based on the value to the taxpayer, the possibility of claiming this deduction instead of the Film Production Tax Credit is very small.

Reliability Factor: No data is available to estimate the fiscal impact as this deduction is not required to be separately reported.

Fiscal Impact: Unknown.

SALES TO STATE-CHARTERED CREDIT UNIONS
GRT AND GGRT DEDUCTION

Category: Economic Development

Brief Description: Receipts from selling tangible personal property to state-chartered credit unions are deductible from gross receipts to the same extent that receipts from the sale of tangible personal property to federal credit unions are deductible.

Statutory Basis: 7-9-61.2 NMSA 1978

Intended Purpose: To provide equitable tax treatment between federally-chartered credit unions and state-charted credit unions and treat state-chartered credit unions as an instrumentality of state government.

History: Originally enacted in 2000.

Evaluation: None.

Recommendations: None.

Reliability Factor: 4 - According to the National Credit Union Administration (NCUA), New Mexico had 20 state-chartered credit unions in 2017. NCUA has also published a document on operating costs for a state-chartered credit union. From this document the tangible property costs estimate (including an estimated 20% of "Other Operating Costs" and "Marketing Costs") was scaled using the compensation data shown for each of the state-chartered credit unions against those shown in the document. The total of these deductions is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Sales to State-Chartered Credit Unions GRT and GGRT Deduction	**Fiscal Year**	2013	2014	2015	2016	2017
	Credit Unions	23	22	20	20	19
	Expenditure (thousands)	$255	$261	$285	$477	$350

SOLAR ENERGY SYSTEMS
GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from the sale or installation of solar energy systems, including solar panels, solar hot water heaters, and trombe walls, are deductible from gross receipts if the equipment is used to generate power for on-site consumption.

Statutory Basis: 7-9-112 NMSA 1978

Intended Purpose: To incentivize the installation and use of solar energy systems at the consumer level.

History: Originally enacted in 2007.

Evaluation: The steady growth rate in TRD's estimated deduction utilization suggests that this deduction continues to benefit solar purchasers.

Recommendations: None.

Reliability Factor: 3 - The solar market development credit, authorized in Section 7-2-18.14 NMSA 1978, is used as a proxy to estimate the size of this deduction. However, that incentive expired in 2016. Published data on the solar credit for residential installations for the last three calendar years from the EMNRD are in line with the TER estimates. The FY2017 estimate is based on half a year of EMNRD 2016 data at which time the solar market development credit expired and an assumption of flat receipts for the first half of calendar year 2017. Given that the federal government still has qualifying tax credits through 2021 and continued public interest in solar energy, consumers will still pursue solar energy systems. The future impact of the expiration of the solar market development credit on this deduction is unknown. The deduction amount is multiplied by the statewide average GRT rate for each year to estimate the cost.

Fiscal Impact:

Deduction, Solar Energy Systems	Tax Year (Calendar	2013	2014	2015	2016	2017
	Claims	Unknown	Unknown	Unknown	Unknown	Unknown
	Expenditure (thousands)	$2,000	$2,100	$2,300	$2,500	$2,600

SOLAR MARKET DEVELOPMENT CREDIT AGAINST PIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Taxpayers who purchase and install a solar thermal system or a photovoltaic system in a residence, business, or agricultural enterprise owned in New Mexico may apply for a solar market development tax credit of up to 10% of the purchase and installation cost of the system against their PIT. This purchase must have been made after January 1, 2006 but before December 31, 2016.

The credit shall not exceed $9,000. The maximum aggregate amount of credits allowed in any tax year is $2 million for solar thermal systems and $3 million for photovoltaic systems. The credit is not refundable but may be carried forward for up to ten years.

Statutory Basis: 7-2-18.14 NMSA 1978

Intended Purpose: To incentivize the growth of the solar industry by subsidizing a portion of the purchase and installation costs of solar systems in New Mexico.

History: Originally enacted in 2006 and amended in 2009 to reduce the credit from 30% to 10% and remove the cumulative federal and state cap of 30%.

Evaluation: A plausible explanation for the steady increase in the number and size of claims and the relative plateau over the last three fiscal years may indicate that the solar market is beginning to mature. If the number of claims corresponds to the number of systems, 5,675 systems were installed between FY2010 and FY2014 at a total five-year expenditure cost of $11,649,400, which at the 10% of cost credit allowance, reflects $116,494,000 in direct economic activity to solar installers. As TRD does not collect information regarding individual systems and system capacity, the energy cost savings cannot yet be determined.

Recommendations: (1) The program expired December 31, 2016. If the program is renewed, TRD recommends that a new statute be written. The new incentive should clarify which business installations will qualify. (2) The statute should expressly require the power be used primarily for on-site consumption.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Solar Market Development Credit	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	1,371	1,390	1,404	1,262	326
	Expenditure (thousands)	$2,678	$2,587	$2,673	$2,408	$350

SPACEPORT-RELATED ACTIVITIES GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Deductible from GRT are receipts from:

(1) launching, operating, or recovering space vehicles or payloads;
(2) preparing a payload;
(3) operating a spaceport; or
(4) providing research, development, testing, and evaluation services for the U.S. Air Force Operationally Responsive Space Program.

Statutory Basis: 7-9-54.2 NMSA 1978

Intended Purpose: To encourage the development of the space industry in New Mexico.

History: Originally enacted in 1995 and amended in 1997, 2001, 2003, and 2007. The 2007 amendment added a deduction for receipts from the provision of research, development, testing, and evaluation services for the U.S. Air Force Operationally Responsible Space Program.

Evaluation: According to publicly available information, currently only one out of state company conducts launches in New Mexico. The company has recently expanded operations at the Spaceport and performs one or two launches a year. A major aerospace company did hold a key test at the Spaceport in FY2018. Several other out of state companies have indicated a desire to perform space-related operations at the Spaceport and one made investments of approximately $2 million. Another company has moved its headquarters to the state and is preparing vehicles for launch, but progress is sporadic. Commercial suborbital flights may begin within FY 2019, but there is no committed schedule yet. Companies which may be involved with the USAF Operationally Responsive Space Program are difficult to identify.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact. Many companies involved in this business could be described as having irregular cash flow. Without a reporting requirement, it is difficult to ascertain which companies qualify and how much of the deduction is being applied. Significantly, the state operates the Spaceport, and it is therefore already exempt from paying GRT.

Fiscal Impact: Unknown.

SPACE-RELATED TEST ARTICLES DEDUCTION FROM COMPENSATING TAX

Category: Highly Specialized Industry

Brief Description: Deduction of the value of space-related test articles used in New Mexico exclusively for research or testing, or placed on public display after use, or stored for future use. The value of equipment and materials used in New Mexico for research or testing to support the research or testing of space-related test articles, or for storage of such equipment or materials to support the research and testing of space-related test articles, is deductible in computing compensating tax due.

Statutory Basis: 7-9-54.4 NMSA 1978

Intended Purpose: Incentivize the development of the space industry in New Mexico.

History: Originally enacted in 2003.

Evaluation: According to publicly available information, currently only one company with the explicit goal of conducting space-related testing actually performs such tests in New Mexico. The company performs perhaps one or two launches a year. Other aerospace companies perform tests at the spaceport irregularly, although a major test took place there in FY2018. Another made investments of approximately $2 million, and another moved its headquarters to the state, although progress on actual launches appear sporadic. There may be other companies which qualify for the deduction, but they are difficult to identify.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact. Many companies involved in this business could be described as having irregular cash flow. Without a reporting requirement it is difficult to ascertain which companies qualify and how much of the deduction is being applied.

Fiscal Impact: Unknown.

SPECIAL NEEDS ADOPTED CHILD CREDIT AGAINST PIT

Category: Citizen Benefits

Brief Description: A taxpayer who has adopted a special needs child (an individual certified as a "difficult to place child") may claim a credit against PIT in the amount of $1,000.

If the amount of credit due to a taxpayer exceeds the taxpayer's PIT liability, the excess is refunded.

Statutory Basis: 7-2-18.16 NMSA 1978

Intended Purpose: To provide tax relief for those who adopted a special needs child.

History: Originally enacted in 2007.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Credit, Special Needs Adopted Child	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	986	988	982	981	917
	Expenditure (thousands)	$1,793	$1,796	$1,774	$1,781	$1,661

SUSTAINABLE BUILDING CREDIT AGAINST PIT AND CIT

Category: Environment, Conservation & Renewable Energy

Brief Description: Enacted in 2007, Sections 7-2A-21 and 7-2-18.19 NMSA 1978 provide the sustainable building tax credit. Sections 7-2A-28 and 7-2-18.29 NMSA 1978, enacted in 2015 and applicable to tax years beginning on or after January 1, 2017, provide the new sustainable building tax credit. Until December 31, 2016, a taxpayer may claim a credit against PIT and CIT for investments in constructing or renovating sustainable residential or commercial buildings that meet specific "green" building standards.

The amount of the credit that may be claimed ranges from $0.70 per square foot to $9.00 per square foot depending on the square footage of the building, the type of building, and the certification level the building has achieved in the LEED green building rating system.

For credits that are less than $100,000, a maximum of $25,000 will be applied against the taxpayer's liability each year as needed; for credits of $100,000 and more, a maximum of 25% will be applied against the taxpayer's liability each year.

The credit is not refundable but is transferable. It may also be carried forward up to seven years.

Statutory Basis: 7-2-18.19 and 7-2A-21 NMSA 1978

Intended Purpose: To encourage the construction of sustainable buildings and the renovation of existing buildings into sustainable buildings.

History: Originally enacted in 2007 and amended in 2009 and 2013.

The 2013 amendment extended the expiration date, changed the aggregate cap for commercial building from $5 million to $1 million and from $5 million to $4 million for residential buildings, and established thresholds for how much of the credit can be claimed in each year.

In 2015 legislation was passed to re-enact a new sustainable building tax credit[15], which: (1) provided the new credit through 2026; (2) lowered the qualified square footage and credit amount for residential buildings; and (3) reinstated a per-credit (as opposed to an aggregated credit) methodology for determining annualized credit claim amounts.

Evaluation: According to EMNRD, the sustainable building tax credit reached its cap in FY2015 and FY2016. In the 12-month period through October 2013, EMNRD received, reviewed, and processed 1,078 applications comprising 2.7 million square feet of floor area, including: six commercial buildings of 663,970

[15] Sections 7-2-18.29 and 7-2A-28 NMSA 1978

square feet; 216 multifamily housing units of 201,763 square feet; 67 manufactured homes of 111,082 square feet; and 795 single-family homes of 1,787,047 square feet. Construction for the buildings that meet the ENERGY STAR, LEED, or the Build Green New Mexico standards provided jobs in 22 New Mexico counties.

TRD used data provided by EMNRD in thousands of BTU's (British Thermal Units) to estimate the savings in dollar amounts. Using the Public Service Company of New Mexico's monthly rates per kilowatt-hour ("kWh"), the Department monetized the savings in energy as a result of the credit. In FY2014, the total savings in residential homes was about $570,000. The future energy savings projections over 10 years were estimated to be $27 million, compared to $18 million in tax credits. Total savings for commercial buildings over 10 years were estimated at $30 million, compared to $2.2 million in tax credits. It should be noted that the monetized energy savings are annual savings and do not project or consider the cumulative energy savings over the useful life of the properties.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required. Differences between annual expenditure reports are attributed to updates in GenTax as tax filers provide late and/or amended returns.

Fiscal Impact:

Credit, Sustainable Building (expired)	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	355	755	484	272	85
	Expenditure (thousands)	$3,402	$5,190	$3,024	$1,486	$255

Credit, New Sustainable Building Credit	**Tax Year (Calendar)**	2017
	Claims	75
	Expenditure (thousands)	$385

TAX STAMPS
RATE DIFFERENTIAL IN CIGARETTE TAX

Category: Health Care

Brief Description: TRD sells tax stamps at face value to distributors of cigarettes. Unless the face value of tax stamps sold in a single sale is less than $1,000, a discount of 0.55% is applied for the first $30,000 of stamps purchased in one calendar month. A 0.44% discount is applied for the next $30,000 of stamps purchased in that month, and a 0.27% discount is applied for any stamps purchased in excess of $60,000.

Statutory Basis: 7-12-7(D) NMSA 1978

Intended Purpose: Presumably, this provides a scaled increase of the price of stamps. Rather than providing for a floor with increases at certain thresholds, it provides a ceiling with decreases at certain thresholds. This meets the definition of a tax expenditure but the intent to make it one is unclear.

History: Originally enacted in 1943 and amended in 1947, 1949, 1953, 1963, 1968, 1970, 1971, 1988, 2006, and 2010. The 2010 amendment reduced the discounts.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - The discounted amounts are reported separately. No estimation is required.

Fiscal Impact:

Tax Stamps Rate Differential in Cigarette Tax	**Fiscal Year**	2013	2014	2015	2016	2017	2018
	Claims	21	20	21	20	21	13
	Expenditure (thousands)	$262.8	$247.8	$260.7	$248.6	$242.1	$232.7

TECHNOLOGY JOBS AND RESEARCH AND DEVELOPMENT CREDIT AGAINST GRT, COMPENSATING TAX, WITHHOLDING TAX, PIT, OR CIT

Category: Economic Development

Brief Description: A taxpayer who conducts qualified research and development at a facility in New Mexico, except at a facility operated for the U.S. government, may claim a basic credit equal to 5% (4% before January 1, 2016) of qualified expenditures (this is doubled to 8% when the qualified facility is in a rural area) against GRT, compensating tax, or withholding tax.

The taxpayer may qualify for an additional 4% credit against PIT and CIT liabilities by raising its in-state payroll by $75,000 for every $1 million in qualified expenditures claimed. This credit doubles if the qualified facility is in a rural area.

A 2015 amendment excluded local option gross receipts tax from the taxes that the basic credit may be claimed against. The legislation also required separate reporting by the taxpayer.

Qualified research and development small business is defined as a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars ($5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than 50% of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business; Prior to January 1, 2016 the credit is not refundable but may be carried forward as long as needed.

Starting January 1, 2016, the credit is refundable if the taxpayer's total qualified expenditures for the taxable year for which the claim is made is:

(1) less than $3 million, the excess additional credit shall be refunded to the taxpayer;

(2) greater than or equal to $3 million and less than $4 million, two-thirds of the excess additional credit shall be refunded to the taxpayer; and

(3) greater than or equal to $4 million and less than or equal to $5 million, one-third of the excess additional credit shall be refunded to the taxpayer.

Statutory Basis: 7-9F-1 *et seq.* NMSA 1978

Intended Purpose: To incentivize the growth of technology-based businesses engaging in research, development and experimentation by providing a favorable tax climate and to promote increased employment and higher wages in those fields in New Mexico.

History: Originally enacted in 2000 and amended in 2015, HB2 Sections 10 through 18 amended the Technology Jobs Tax Credit Act to create the Technology Jobs and Research and Development Tax Credit Act. Section 7-9F-9 NMSA 1978 was amended to set forth the mechanism for claiming the basic credit, and to exclude local option gross receipts tax from the taxes that the basic credit may be claimed against. A taxpayer reporting requirement was also created.

Evaluation: None.

Recommendations: None.

Reliability Factor: 2 – Although this credit is separately reported, its reliability has been temporarily moved from 1 to 2 because of a certain issue within the reporting mechanism, which is currently under review by the Department's Audit and Compliance Division (ACD). Therefore, this expenditure requires an adjustment based on recommendation provided by ACD.

Fiscal Impact:

Credit, Tech Jobs and R&D	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	264	225	240	227	99
	Expenditure (thousands)	$6,614	$4,565	$3,145	$2,581	$908

TEST ARTICLES
DEDUCTION FROM COMPENSATING TAX

Category: Highly Specialized Industry

Brief Description: The value of test articles upon which research or testing is conducted in New Mexico pursuant to a contract with the U.S. Department of Defense is deductible from the compensating tax due. The deduction provided does not apply to the value of property purchased by a prime contractor operating a facility designated as a national laboratory by an act of Congress.

Statutory Basis: 7-9-54.5 NMSA 1978

Intended Purpose: To incentivize the retention of U.S. Air Force bases in New Mexico by allowing a compensating tax deduction for the use of test articles upon which research or testing is conducted in New Mexico pursuant to a contract with the U.S. Department of Defense.

History: Originally enacted in 2004.

Evaluation: None.

Recommendations: None.

Reliability Factor: No data are available to estimate the fiscal impact.

Fiscal Impact: Unknown.

TIDD – TAX INCREMENT FOR DEVELOPMENT DISTRICT DEDICATED INCREMENTS

Category: Economic Development

Brief Description: State and local governments may dedicate a portion of GRT increments and property tax increments for use by a TIDD to fund eligible activities of the TIDD.

Statutory Basis: 5-15-15 NMSA 1978

Intended Purpose: To create a mechanism for providing GRT and property tax financing for public infrastructure to incentivize the support of economic development and job creation.

History: Originally enacted in 2006 and amended in 2009 and 2014.

The 2009 amendment clarified the following: that approval of the plan is by the governing body of the municipality or county within which the TIDD projects are proposed, that the deposit the petitioners make may be reimbursed from proceeds from the sale of bonds issued by the TIDD, to direct the governing body of the local government to notify TRD, DFA, and the LFC when a resolution is adopted, and to add requirements for the content of the notice of hearing, and to clarify some administrative provisions.

The 2014 amendment created a mechanism for adjusting a base year one time.

Evaluation: TIDDs allow for state and local governments to contribute tax revenue to developments that are deemed to be mutually beneficial. Administratively, TIDDs require great care in the initial setup and baseline setting stage. If the baseline is set correctly from the start, taxpayer location misfiling issues are easily corrected through the net receipts process.

Recommendations: None.

Reliability Factor: 1 – GRT reporting within TIDDs are reported separately. No estimation is required. In FY15 new TIDDs existed that were not included in the 2015 report. They have been included this year.

Fiscal Impact:

Tax Increment for Development District Dedicated Increments	**Fiscal Year**	2014	2015	2016	2017	2018
	Expenditure (thousands)	$4,041	$5,358	$5,212	$7,809	$7,382

URANIUM ENRICHMENT PLANT EQUIPMENT DEDUCTION FROM COMPENSATING TAX

Category:	Highly Specialized Industry
Brief Description:	The value of equipment and replacement parts for that equipment may be deducted in computing the compensating tax due if the taxpayer uses the equipment or replacement parts to enrich uranium in a uranium enrichment plant.
Statutory Basis:	7-9-78.1 NMSA 1978
Intended Purpose:	To incentivize enrichment plants to locate in New Mexico.
History:	Originally enacted in 1999.
Evaluation:	Operating as intended. The only current commercial enrichment facility in the United States opened in New Mexico a decade after this statute was enacted.
Recommendations:	None.
Reliability Factor:	No data are available to estimate the fiscal impact.
Fiscal Impact:	Unknown.

URANIUM HEXAFLUORIDE AND URANIUM ENRICHMENT GRT DEDUCTION

Category: Highly Specialized Industry

Brief Description: Receipts from selling uranium hexafluoride and uranium enrichment are deductible from gross receipts.

Statutory Basis: 7-9-90 NMSA 1978

Intended Purpose: To incentivize the uranium hexafluoride industry and uranium enrichment plants to locate in New Mexico.

History: Originally enacted in 1999 and amended in 2012. The 2012 amendment allowed the deduction for the sale of uranium hexafluoride.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 - This deduction is separately reported. No estimation is required.

Fiscal Impact: Has been redacted in all years due to fewer than 3 taxpayers taking the deduction.

UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES CREDIT FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer who is 65 years of age or older may claim a credit of $2,800 for medical care expenses paid by the taxpayer equal to $28,000 or more, if those expenses are not reimbursed or compensated for by insurance or otherwise. This credit is refundable if the credit exceeds the income tax liability for the taxable year.

Statutory Basis: 7-2-18.13 NMSA 1978

Intended Purpose: To accommodate taxpayers by deducting medical expenses not otherwise reimbursed or compensated by reducing NM taxable income.

History: Originally enacted in 2005 with no expiration.

Evaluation: None.

Recommendations: None.

Reliability Factor: 1 – The expense is calculated directly from taxpayer data. No estimation is required.

Fiscal Impact:

Unreimbursed Medical Expenses Credit	**Tax Year (Calendar)**	2013	2014	2015	2016	2017
	Claims	2,120	2,235	2,188	2,641	2,458
	Expenditure (thousands)	$5,922	$6,245	$6,115	$7,378	$6,870

UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES DEDUCTION FROM PIT

Category: Citizen Benefits

Brief Description: A taxpayer may claim a deduction from net income in an amount determined from medical care expenses paid during the tax year for medical care of the taxpayer, the taxpayer's spouse or dependent(s) if those expenses were not reimbursed or compensated by insurance or otherwise.

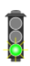
Statutory Basis: 7-2-37 NMSA 1978

Intended Purpose: To accommodate taxpayers by deducting medical expenses not otherwise reimbursed or compensated by reducing NM taxable income.

History: Originally enacted in 2015. This deduction has a sunset provision of January 1, 2025.

Evaluation: This is one of several citizen benefit expenditures related to unreimbursed medical expenses. This program is available to all taxpayers, subject to percentages determined by adjusted gross income thresholds. On average approximately 30% of taxpayers use this benefit.

Recommendations: None.

Reliability Factor:  1 – The exemption amounts for each taxpayer claiming this exemption were computed, making this data more reliable than in past years when an average rate for all taxpayers was used.

Fiscal Impact:

Unreimbursed Medical Expenses Deduction	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	315,722	319,941	327,321	320,108	297,550
	Expenditure (thousands)	$3,069	$3,298	$3,324	$3,275	$3,021

UNREIMBURSED OR UNCOMPENSATED MEDICAL CARE EXPENSES EXEMPTION FROM PIT

Category: Citizen Benefits

Brief Description: Any individual who is 65 years or older may claim an additional exemption from net income in an amount equal to $3,000 for medical care expenses paid during the taxable year if those medical expenses exceed $28,000 and are not reimbursed or compensated by insurance or otherwise. Medical expenses could be for the individual, the individual's spouse, or the individual's dependents.

Statutory Basis: 7-2-5.9 NMSA 1978

Intended Purpose: To accommodate taxpayers by deducting medical expenses not otherwise reimbursed or compensated by reducing NM taxable income.

History: This exemption was enacted in 2005 and does not have a sunset provision.

Evaluation: This is one of several citizen benefit expenditures related to unreimbursed medical expenses.

Recommendations: None.

Reliability Factor: 1 – This expenditure is calculated directly using taxpayer data. No estimating is required.

Fiscal Impact:

Exemption, Un-reimbursed Medical Expenses	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	2,806	2,846	2,842	2,964	2,568
	Expenditure (thousands)	$100	$116	$109	$119	$118

VEHICLES TITLED BEFORE JULY 1, 1991 EXEMPTION FROM LVGRT

Category:	Citizen Benefits
Brief Description:	Receipts from leasing, by the owner, of vehicles that were acquired by the owner prior to July 1, 1991 are exempt from the LVGRT as long as the MVX was paid and a certificate of title was issued prior to July 1, 1991.
Statutory Basis:	7-14A-9 NMSA 1978
Intended Purpose:	To avoid retroactivity of taxes on vehicles titled before the enactment date.
History:	Originally enacted in 1991.
Evaluation:	The majority of leases are 3 years and are for new vehicles. The likelihood that someone would lease a 25-year-old car is very low due to its age and high mileage unless they are being leased as vintage vehicles.
Recommendations:	Repeal. At this point in time the exemption applies to very few, if any, vehicles.
Reliability Factor:	TRD's internal database does not have records of leases on vehicles which were titled before July 1, 1991.
Fiscal Impact:	Unknown, but likely very small.

VENTURE CAPITAL INVESTMENT CREDIT AGAINST PIT

Category: Economic Development

Brief Description: A taxpayer may claim a credit against PIT liability equal to a capital gain tax differential (typically 50% of the federal income tax paid by the taxpayer on qualified diversifying business net capitals gains) if the taxpayer allocates the qualified diversifying business net capital gain to New Mexico.

The credit is not refundable but may be carried forward indefinitely.

Statutory Basis: 7-2D-8.1 NMSA 1978

Intended Purpose: To encourage strategic advances of the current business to facilitate explorations of potential new businesses.

History: Originally enacted in 1995.

Evaluation: This credit is not being claimed.

Recommendations: Repeal. This credit appears to mirror the net capital gain income deduction, and its use is precluded if the net capital gain deduction is taken. A study to determine why the credit is unused is recommended.

Reliability Factor: 1 - This credit is required to be separately reported. No estimation is required.

Fiscal Impact: No taxpayers have claimed this credit.

VETERAN EMPLOYMENT CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Applicable to taxable years beginning January 1, 2012 and ending January 1, 2017, a taxpayer who employs a qualified military veteran in New Mexico is eligible for a credit against the taxpayer's PIT and CIT. The amount of the credit is up to $1,000 of the gross wages paid during the taxable year for which the return is filed for each military veteran who is hired within two years of being honorably discharged. The veteran must work at least 40 hours per week and have not been previously employed by the taxpayer prior to the deployment.

The credit can only be claimed for one year per individual veteran.

The credit is not refundable but may be carried forward for three years.

Statutory Basis: 7-2-18.28 and 7-2A-27 NMSA 1978

Intended Purpose: To encourage the full-time employment of qualified military veterans within two years of discharge from the armed forces of the United States.

History: Originally enacted in 2012.

Evaluation: The credit is underutilized. Possible explanations are that taxpayers are unaware of the credit or that the credit is too small to incentivize the hiring of qualified veterans.

Recommendations: Repeal. The credit applied to taxable years 2012-2016 with a carry forward of three years. This credit can no longer be claimed on tax returns after the 2019 tax year. As the original bill did not have a delayed repeal this statute is still in law.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: Has been redacted in 2016 due to fewer than three taxpayers claiming this credit.

Veteran Employment Credit Against PIT and CIT	Tax Year (Calendar)	2014	2015	2016	2017
	Expenditure	$0	$0	-	$0

WELFARE-TO-WORK
CREDIT AGAINST PIT AND CIT

Category: Citizen Benefits

Brief Description: Prior to January 1, 2008 certain businesses located in mostly rural counties that qualified for the federal welfare-to-work credit provided by 26 USC § 51A may also have been eligible for the New Mexico welfare-to-work credit against PIT and CIT. Beginning January 1, 2008, 26 USC § 51A was repealed and replaced by federal work opportunity credit. Employers qualifying for the new federal work opportunity credit will not qualify for the New Mexico credit. The credit may be carried forward for up to three years.

Statutory Basis: 7-2-18.5 and 7-2A-8.8 NMSA 1978

Intended Purpose: To encourage businesses to hire employees who have been long-term family assistance recipients and who reside in high-unemployment counties.

History: Originally enacted in 1998.

Evaluation: This credit is rarely being used. Now that the federal program this credit was tied to no longer exists, taxpayers are able to claim the credit only if a taxpayer either carried forward the credit or amended a return for activity that happened while the federal credit was still in effect. Presumably this accounts for the lack of activity since the credit expired.

Recommendations: Repeal. This credit is tied to a federal program that no longer exists and therefore has no effect.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact: None. The credit is no longer available and the carryforward for prior claims has expired.

WIND AND SOLAR GENERATION EQUIPMENT GRT DEDUCTION

Category: Environment, Conservation & Renewable Energy

Brief Description: Receipts from selling wind generation equipment or solar generation equipment to a federal or state government agency for the purpose of installing a wind or solar electric generation facility are deductible from gross receipts.

Statutory Basis: 7-9-54.3 NMSA 1978

Intended Purpose: To incentivize government entities to purchase wind and solar generation equipment for a renewable energy facility.

History: Originally enacted in 2002 and amended in 2010 to expand the deduction to include solar generation equipment.

Evaluation: During the implementation of the American Recovery and Reinvestment Act (ARRA), many levels of government, including state, municipalities and Indian nations, received ARRA grants to implement solar and wind energy projects. Given the ideal climate for wind and solar energy and long-term energy and cost efficiencies, ARRA funding provided the financial incentive to pursue these projects. These energy cost efficiencies will benefit taxpayers in the long run as lower energy costs help constrained budgets. How much this GRT deduction is an incentive for further projects is unclear given the lack of data.

Recommendations: "Government" is defined in this statute as federal or state level entities. Amending the statute to include county and municipal entities will extend savings to the lower tier governmental entities.

Reliability Factor: No data are available to estimate the fiscal impact.

Fiscal Impact: Unknown.

WORKING FAMILIES
CREDIT AGAINST PIT

Category: Citizen Benefits

Brief Description: Individuals may claim a credit against PIT equal to 10% of their federal earned income tax credit. The credit is refundable.

Statutory Basis: 7-2-18.15 NMSA 1978

Intended Purpose: To reduce the tax burden on working families.

History: Originally enacted in 2007 and amended in 2008.

Evaluation: The Working Families Tax Credit is one of several tax programs that contribute to the Maintenance of Effort (MOE) certification for the TANF program. The income thresholds for the federal Earned Income Tax Credit are adjusted annually; the New Mexico credit is contingent upon receipt of the federal credit.

Recommendations: None.

Reliability Factor: 1 - This credit is separately reported. No estimation is required.

Fiscal Impact:

Working Families Tax Credit	Tax Year (Calendar)	2013	2014	2015	2016	2017
	Claims	216,893	214,195	213,083	211,194	197,794
	Expenditure (thousands)	$51,855	$51,838	52,430	$52,052	$49,549

NOT TAX EXPENDITURES

While almost anything with respect to tax expenditures can be debated, little argument[16] surrounds the following deviations from the tax code; therefore, we are comfortable classifying them as “Not Tax Expenditures”.

Many of these deviations fall into one of two broad categories: 1) reducing the effects of pyramiding or 2) allowing deductions or exemptions under one tax program because the Legislature has elected to impose tax under another program. One of the detrimental impacts of a GRT system is that, absent a deviation, external costs of production are taxed at the time the producer acquires them and then again when the producer sells the final product. When compared to a sales tax system, this makes the cost of a good or service more expensive even when all factors other than the type of tax system are equal. Many of the deductions in New Mexico’s GRT are designed to eliminate the taxation on the inputs so that the tax is only applied to the final product.

Furthermore, New Mexico policymakers have decided to use different tax structures to tax different activities (e.g., MVX for the sale of motor vehicles). Deviations from one structure when the activity is taxed under a different structure (e.g., GRT deduction for the sale of motor vehicles) prevent double taxation.

Several other deviations are in the code because of the federal preemption doctrine. Because states are prohibited from taxing the federal government, New Mexico is unable to impose a tax in these cases regardless of whether the deviation was placed in the code. Including it simply provides some measure of clarity to the taxpayer and the Taxation and Revenue Department.

Information about this category is not specifically required by Executive Order 2011-071. However, we have included some descriptive information about them in order to give the reader a more complete picture of the New Mexico tax landscape.

[16] Note that this is intentionally different from saying that “there is no argument”; judgment calls are an inherent feature of tax expenditure analysis and the economists at the New Mexico Taxation and Revenue Department have used their best judgement in determining what is and what is not a tax expenditure.

ACCREDITED DIPLOMATS AND MISSIONS GRT DEDUCTION

Brief Description: Receipts from the sale or lease of property to, or from performing services for, accredited foreign missions or diplomats are deductible from gross receipts when required by a treaty to which the U.S. Government is a signatory.

Statutory Basis: 7-9-89 NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine.

History: Originally enacted in 1998.

ACQUISITION OF VEHICLE FOR SUBSEQUENT LEASE EXEMPTION FROM MVX

Brief Description: A person who acquires a vehicle for subsequent lease is exempt from the MVX if:

(1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or selling it in the ordinary course of business;

(2) the lease is for a term of more than 6 months;

(3) the receipts from the subsequent lease are subject to GRT; and

(4) the vehicle does not have a gross vehicle weight of over 26,000 pounds.

Statutory Basis: 7-14-6(F) NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid pyramiding as there is a requirement the subsequent lease be subject to GRT.

History: The section was originally enacted in 1988 and was amended in 1990, 1994, 2004, and 2007. The language in this subsection was added as part of the amendment in 1994.

ACQUISITION OF VEHICLE MORE THAN 30 DAYS BEFORE MOVING TO NM
EXEMPTION FROM MVX

Brief Description: A person who acquires a vehicle out of state thirty or more days before establishing a domicile in this state is exempt from the tax if the vehicle was acquired for personal use.

Statutory Basis: 7-14-6(A) NMSA 1978

Intended Purpose: Presumably to eliminate an unreasonable tax burden on non-residents relocating to New Mexico on personally owned and operated vehicles.

History: Originally enacted in 1988.

ATHLETIC FACILITY SURCHARGE
EXEMPTION FROM GRT AND GGRT

Brief Description: Exempted from the GRT and from the GGRT are the receipts of a university from an athletic facility surcharge imposed pursuant to the University Athletic Facility Funding Act.

Statutory Basis: 7-9-41.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs. Because the University Athletic Funding Act allows a university to impose an athletic facility surcharge on products and services sold at or related to the facility, this exempts those sales from the GRT and GGRT so that they are not taxed twice.

History: Originally enacted in 2007 as part of the legislation that enacted the University Athletic Facility Funding Act.

BAD DEBTS
DEDUCTION FROM ITGRT

Brief Description: Refunds and allowances made to buyers of interstate telecommunications services or amounts written off the books as an uncollectible debt by a person reporting ITGRT on an accrual basis are deductible from interstate telecommunications gross receipts.

If debts reported as uncollectible are subsequently collected, the receipts must be included in interstate telecommunications gross receipts when they are collected.

Statutory Basis: 7-9C-9 NMSA 1978

Intended Purpose: Presumably to properly define the tax base and avoid requiring a taxpayer to pay taxes on non-existent receipts.

History: Originally enacted in 1992.

BIODIESEL FOR SUBSEQUENT BLENDING OR RESALE BY A RACK OPERATOR DEDUCTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Biodiesel loaded in or imported into New Mexico and delivered to a rack operator for subsequent blending or resale by a rack operator is deductible from gallons used to determine loads for the purposes of calculating the petroleum products loading fee.

Statutory Basis: 7-13A-5(B) NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: The section was originally enacted in 1990. This subsection was created by an amendment in 2014.

BOATS
EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Both the receipts from selling, and the use of, boats on which an excise tax is imposed are exempt from the GRT and the compensating tax.

Statutory Basis: 7-9-22.1 and 7-9-23.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs as these exemptions only apply to those boats on which a tax is imposed pursuant to Section 66-12-6.1 NMSA 1978.

History: Originally enacted in 1987.

BUSINESS LOCATED ON LAND OWNED BY THE MUNICIPALITY BUT OUTSIDE THE MUNICIPAL BOUNDARIES
EXEMPTION FROM SUPPLEMENTAL MUNICIPAL GRT AND MUNICIPAL LOCAL OPTION GRT

Brief Description: A business located outside of the boundaries of a municipality on land owned by that municipality is exempt from the supplemental municipal GRT and the municipal local option GRT.

Statutory Basis: 7-19-14(B) and 7-19D-5(B) NMSA 1978

Intended Purpose: Presumably to resolve a jurisdictional question and provide certainty about the tax rate that applies in this situation (without this clarification, there could be arguments about which tax rate applies).

History: Originally enacted in 1979 and amended in 1983 and 1994.

CERTAIN RETAIL SALES OF GASOLINE ON AN INDIAN RESERVATION, PUEBLO GRANT OR TRUST LAND DEDUCTION FROM GASOLINE TAX

Brief Description: A person may deduct a percentage equal to the rate the Indian nation, tribe, or pueblo charges divided by the rate the state charges from the gasoline gallons received that are sold at retail on Indian nation, tribe, or pueblo land.

Statutory Basis: 7-13-4.4 NMSA 1978

Intended Purpose: Presumably to address multi-jurisdictional taxation as the deduction may only be taken if the Indian nation, tribe, or pueblo has certified that it has in effect an excise, privilege, or similar tax on gasoline.

History: Originally enacted in 2000.

CHARITABLE ORGANIZATIONS EXEMPTION FROM PIT

Brief Description: Religious, educational, benevolent, or other organizations not organized for profit which are exempt from income taxation under the Internal Revenue Code are exempt from PIT and CIT; however, PIT and CIT apply to the unrelated business income of the organization.

Statutory Basis: 7-2-4(B) and 7-2A-4(C) NMSA 1978

Intended Purpose: To define the tax base.

History: The PIT exemption was originally enacted in 1965 and amended in 1969, 1971, and 1981.

The CIT exemption was originally enacted in 1981 and amended in 1986 and 1989.

CHEMICALS AND REAGENTS GRT DEDUCTION

Brief Description: Receipts from selling chemicals or reagents to any mining, milling, or oil company for use in processing ores or oil in a mill, smelter, or refinery or in acidizing oil wells, and receipts from selling chemicals or reagents in lots in excess of eighteen tons are deductible from gross receipts.

Statutory Basis: 7-9-65 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969.

CONSTRUCTION MATERIAL GRT DEDUCTION

Brief Description: Receipts from selling construction material are deductible from gross receipts if the sale is made to a person engaged in the construction business.

The buyer must present a nontaxable transaction certificate to the seller and incorporate the construction material as:

(1) an ingredient or component part of a construction project that is subject to the GRT upon its completion or upon the completion of the overall construction project of which it is a part;

(2) an ingredient or component part of a construction project that is subject to the GRT upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) an ingredient or component part of a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

Statutory Basis: 7-9-51 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 2000 and 2001.

CONSTRUCTION SERVICES AND CONSTRUCTION-RELATED SERVICE GRT DEDUCTION

Brief Description: Receipts from selling a construction service or a construction-related service are deductible from gross receipts if the sale is made to a person engaged in the construction business.

The buyer must present a nontaxable transaction certificate to the seller and have the construction services or construction-related services directly contracted for or billed to:

(1) a construction project that is subject to the GRT upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the GRT upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe or pueblo.

Statutory Basis: 7-9-52 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 2000 and 2012. The 2012 amendment included the deduction for constructed-related services.

DIVIDENDS AND INTEREST EXEMPTION FROM GRT

Brief Description: Interest on money loaned or deposited; dividends or interest from stocks, bonds, or securities; and receipts from the sale of stocks, bonds, or securities are exempt from GRT. This exemption exists because the above are taxed under the personal income tax.

Statutory Basis: 7-9-25 NMSA 1978

Intended Purpose: Presumably enacted as a base defining measure.

History: Originally enacted in 1969.

DYED GASOLINE USED FOR OFF-ROAD TRANSPORTATION DEDUCTION FROM GASOLINE TAX

Brief Description: Gasoline that is dyed in accordance with TRD regulations and is not used in motor vehicles operating on the highways of New Mexico is deductible from the gasoline tax but is subject to GRT.

Statutory Basis: 7-13-4(D) NMSA 1978

Intended Purpose: Presumably to recognize that off-road vehicles don't contribute to the deterioration of the roads, the maintenance of which is funded through the gasoline tax distributions to the State Road Fund.

History: The section was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The language in this subsection was created by an amendment in 1998.

DYED SPECIAL FUEL DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Brief Description: Special fuels dyed in accordance with federal regulations are deductible from the special fuel excise tax.

Statutory Basis: 7-16A-10(E) NMSA 1978

Intended Purpose: Presumably to recognize that off-road vehicles do not contribute to the deterioration of the roads, the maintenance of which is funded through the special fuel excise tax distributions to the State Road Fund.

History: This section was originally enacted in 1992 and amended in 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

EVENT CENTER SURCHARGE
EXEMPTION FROM GRT AND GGRT

Brief Description: Receipts from selling tickets, parking, souvenirs, concessions, programs, advertising, merchandise, corporate suites or boxes, broadcast revenues, and all other products or services sold at or related to a municipal event center on which an event center surcharge is imposed pursuant to the Municipal Event Center Funding Act are exempt from GRT and GGRT.

Statutory Basis: 7-9-13.5 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs as the receipts have to be subject to an event center surcharge in order to be exempt.

History: Originally enacted in 2005 as part of the legislation that enacted the Municipal Event Center Funding Act.

Evaluation: The Municipal Event Center Funding Act provides an additional method of accessing the capital markets to meet the need for a complete funding package for functional and modern municipal event centers. Because the Municipal Event Center Funding Act allows a municipality to impose an event center surcharge on products and services sold at or related to the stadium, these exemptions from the GRT and GGRT prevent them from being taxed twice.

FILMS AND TAPES
GRT DEDUCTION

Brief Description: Receipts from leasing theatrical and television films and tapes to movie theaters or similar facilities when the theater's receipts are subject to GRT are deductible from gross receipts.

Statutory Basis: 7-9-76.2 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1984.

FOOD STAMPS/SNAP
EXEMPTION FROM GRT

Brief Description: Receipts of retailers from the redemption of food stamps are exempt from GRT.

Statutory Basis: 7-9-18.1 NMSA 1978

Intended Purpose: This program is not considered a tax expenditure because of the Code of Federal Regulations Title 7, Subtitle B, Chapter II C, §278.2 prohibits the state from taxing food purchased with SNAP coupons. The statute's intended purpose is to lower the cost of food for those who qualify and use food stamps (aka Supplemental Nutrition Assistance Program or "SNAP").

History: Originally enacted in 1987.

Evaluation: To comply with the federal preemption doctrine. This exemption only applies when a SNAP recipient does not buy food from one of 1,541 qualified SNAP points of sale in the state. Because of this, the estimated amounts for this exemption are relatively small when compared to the total amount of SNAP exemptions as reported by HSD.

Recommendations: None.

Reliability Factor: 3 – Using expenditure and case number data from HSD between FY2014 and FY2018, the annual average GRT rate was applied to the annual dollar amounts of SNAP expenditures. To estimate the amounts of these expenditures TRD assumed a maximum exemption rate of 9% starting in FY2010 and a 4% exemption rate ending in FY2014. This exemption applies when SNAP benefits are used to purchase food from a qualified food retail store. Therefore, receipts under Section 7-9-92 NMSA 1978 may not be deducted if they are exempted by Section 7-9-18.1 NMSA 1978.

Fiscal Impact:

Food Stamps/SNAP Exemption from GRT	Fiscal Year	2014	2015	2016	2017	2018
	Expenditure (thousands)	$2,600	$2,300	$1,900	$1,900	$1,950

FUEL
EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: The selling and the use of gasoline, special fuel, or alternative fuel on which the tax imposed by other acts have been paid are exempt from GRT and compensating tax.

Statutory Basis: 7-9-26 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs as the fuels must be taxed pursuant to the gasoline tax, the special fuel excise tax, or the Alternative Fuel Tax Act in order to qualify for the exemption.

History: Originally enacted in 1969 and amended in 1971, 1980, 1981, 1983, 1993, and 1995.

GASOLINE OR SPECIAL FUELS RETURNED TO THE REFINER AS UNCOLLECTIBLE
DEDUCTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Gasoline and special fuels that are returned to the refiner, pipeline terminal operator, or distributor are deductible from the gallons used to determine loads for purposes of calculating the PPLF when refunds and allowances are made to buyers for the returned fuel.

Gasoline and special fuels, the payment for which has not been collected and has been determined to be uncollectible, are deductible from the gallons used to determine loads for purposes of calculating the PPLF.

Statutory Basis: 7-13A-5(A) NMSA 1978

Intended Purpose: Presumably to ensure that taxes are not paid on gasoline and special fuel which the taxpayer is unable to market.

History: Originally enacted in 1990 and amended in 2014.

INCOME ALLOCATION AND APPORTIONMENT CREDIT AGAINST CIT

Brief Description: Net income of any taxpayer having income that is taxable both within and without this state shall be apportioned and allocated pursuant to the Uniform Division of Income for Tax Purposes Act.

Statutory Basis: 7-2A-8 NMSA 1978

Intended Purpose: To define the tax base and prevent New Mexico from taxing income that is properly attributed to another state per the U.S. Commerce Clause.

History: Originally enacted in 1981 and amended in 1983, 1986, 1990, 1995, and 1996.

INDIANS EXEMPTION FROM PIT

Brief Description: Income earned by a member of a New Mexico federally-recognized Indian nation, tribe, band or pueblo, the member's spouse or dependent, who is a member of a New Mexico federally-recognized Indian nation, tribe, band or pueblo, is exempt from PIT if the income is earned from work performed within and the member, spouse or dependent lives within the boundaries of the Indian member's or the spouse's reservation or pueblo grant or within the boundaries of lands held in trust by the U.S. for the benefit of the member or spouse or his nation, tribe, band or pueblo, subject to restriction against alienation imposed by the U.S..

Statutory Basis: 7-2-5.5 NMSA 1978

Intended Purpose: To define the tax base and comply with federal restraints on state taxation under federal Indian law.

History: Originally enacted in 1995.

INSURANCE COMPANIES
EXEMPTION FROM CIT

Brief Description: Insurance companies that pay a premium tax to the state are exempt from CIT.

Statutory Basis: 7-2A-4(A) NMSA 1978

Intended Purpose: To avoid taxation under multiple programs as qualification for the exemption is dependent upon paying a premium tax.

History: Originally enacted in 1981 and amended in 1986 and 1989.

INTERGOVERNMENTAL COAL SEVERANCE
CREDIT AGAINST COAL SEVERANCE TAX

Brief Description: A person who severs coal from tribal land may claim a credit against the coal severance tax and the coal surtax imposed under Section 7-26-6 NMSA 1978.

The credit is calculated monthly and is equal to 75% of the lesser of:

(1) the aggregate amount of taxes in effect on March 1, 2001 imposed by the Indian nation, tribe, or pueblo; or

(2) the aggregate amount of coal severance tax and the coal surtax due the state.

Statutory Basis: 7-29C-2 NMSA 1978

Intended Purpose: Presumably in deference to the sovereignty of Indian nation, tribes, and pueblos and address issues with multi-jurisdictional taxation.

History: Originally enacted in 2001.

INTERGOVERNMENTAL CREDIT AGAINST CIT

Brief Description: A new business which opens on Indian land after July 1, 1997 may claim a credit against the CIT.

The credit is calculated for each reporting period and is equal to 50% of the lesser of:

(1) the aggregate amount of tax paid by the taxpayer; or

(2) the amount of the taxpayer's CIT due from the new business' activity on Indian land.

Statutory Basis: 7-2A-16 NMSA 1978

Intended Purpose: To accommodate principles of fair apportionment between the tribes and the state.

History: Originally enacted in 1997.

INTERGOVERNMENTAL PRODUCTION AND INTERGOVERNMENTAL PRODUCTION EQUIPMENT CREDIT AGAINST OIL AND GAS SEVERANCE TAX, OIL AND GAS CONSERVATION TAX, OIL AND GAS EMERGENCY SCHOOL TAX, AND OIL AND GAS AD VALOREM PRODUCTION TAX

Brief Description: A person who severs products from tribal land may claim a credit against the oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax, or the oil and gas ad valorem production tax.

The credit is calculated monthly and is equal to 75% of the lesser of:

(1) the aggregate amount of taxes in effect on March 1, 1995 imposed by the Indian nation, tribe, or pueblo; or

(2) the aggregate amount of oil and gas severance tax, the oil and gas conservation tax, the oil and gas emergency school tax, or the oil and gas ad valorem production tax due the state.

A person who is liable for the payment of the oil and gas production equipment ad valorem tax imposed on equipment located on Indian tribal land may claim a credit.

The credit is calculated monthly and is equal to 75% of the lesser of:

(1) the aggregate amount of ad valorem or similar taxes in effect on March 1, 1995 imposed by the Indian nation, tribe, or pueblo; or

(2) the aggregate amount of oil and gas production equipment tax due the state.

Statutory Basis: 7-29C-1 NMSA 1978

Intended Purpose: Presumably in deference to the sovereignty of Indian nations, tribes, and pueblos and to address the cumulative tax burden of multijurisdictional taxation.

History: Originally enacted in 1995 and amended in 1999.

INTERNET SERVICES
GRT DEDUCTION

Brief Description: Receipts from providing telecommunications, Internet, or Internet access services to internet service providers are deductible.

Statutory Basis: 7-9-56.1 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the final user must be subject to the GRT or ITGRT.

History: Originally enacted in 1998 and amended in 2000.

INTERSTATE SALES OF SPIRTUOUS LIQUORS, BEER, & WINE AND WINEGROWER-TO-WINEGROWER TRANSFERS
DEDUCTION FROM LIQUOR EXCISE TAX

Brief Description: A wholesaler who sells and ships liquor, beer, or wine out of state may claim a deduction for those liters from the units of alcoholic beverages subject to the liquor excise tax.

A winegrower who transfers wine to another winegrower for processing, bottling, or storage and subsequently returns the wine to the original winegrower may claim a deduction for those liters from the units of wine subject to the liquor excise tax.

Statutory Basis: 7-17-6 NMSA 1978

Intended Purpose: Presumably to increase New Mexico winegrowers' competitiveness in other states with respect to the out-of-state deduction and to ensure that the product is not taxed twice (once in New Mexico and once in the other state); and to reduce tax pyramiding with respect to the winegrower-to-winegrower transfers.

History: Originally enacted in 1984 and amended in 1995 and 2008.

INTERSTATE SALES OF TOBACCO DEDUCTION AGAINST TOBACCO PRODUCTS TAX

Brief Description: The value of tobacco products sold and shipped or given and shipped to a person in another state is deductible from the product value subject to tax imposed by the Tobacco Products Tax Act.

Statutory Basis: 7-12A-5 NMSA 1978

Intended Purpose: Presumably to ensure that the product is not taxed twice (once in New Mexico and again in the other state).

History: Originally enacted in 1986.

INTERSTATE TELECOMMUNICATIONS SERVICES EXEMPTION FROM GRT

Brief Description: Receipts from selling or providing interstate telecommunications services that are subject to ITGRT are exempt

Statutory Basis: 7-9-38.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs as the exemption only applies to the sale or provision of interstate telecommunications services subject to the tax imposed by the Interstate Telecommunications Gross Receipts Tax Act[17].

History: Originally enacted in 1992 and amended in 1993.

INTERSTATE COMMERCE TRANSACTIONS DEDUCTION FROM LVGRT

Brief Description: Receipts from transactions in interstate commerce are deductible from gross receipts to the extent that the imposition of the leased vehicle gross receipts tax would be unlawful under the United States Constitution.

Statutory Basis: 7-14A-7 NMSA 1978

Intended Purpose: To comport with U.S. Constitutional limitations on state taxation under the Commerce Clause.

History: Originally enacted in 1991.

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[17] Section 7-9C-1 NMSA 1978

JEWELRY MANUFACTURING GRT DEDUCTION

Brief Description:	Receipts from selling tangible personal property are deductible from gross receipts if it is incorporated as an ingredient or component part of the jewelry the buyer is in the business of manufacturing. The deduction allowed a seller under this section shall not exceed $5,000 during any twelve-month period attributable to purchases by a single purchaser.
Statutory Basis:	7-9-74 NMSA 1978
Intended Purpose:	Presumably to reduce tax pyramiding as the deduction only applies if the sale is made to a person who uses the property as an ingredient or component part of the jewelry the buyer manufactures.
History:	Originally enacted in 1971 and amended in 1975 and 1994.

JICARILLA APACHE TRIBAL CAPITAL IMPROVEMENTS TAX CREDIT AGAINST OIL AND GAS EMERGENCY SCHOOL TAX

Brief Description:	A person who is liable for the payment of the oil and gas emergency school tax imposed on products severed from Jicarilla Apache tribal land shall be entitled to a credit against the oil and gas emergency school tax for qualifying products. The credit is calculated monthly and is equal to the lesser of: (1) the Jicarilla Apache tribal capital improvements tax; or (2) .7% of the taxable value of the products severed from qualified wells.
Statutory Basis:	7-31-27 NMSA 1978
Intended Purpose:	Presumably in deference to the sovereignty of Indian nations, tribes, and pueblos and address issues with multi-jurisdictional taxation. The Jicarilla Apache tribal capital improvements tax is exclusively dedicated to fund capital improvements projects on Jicarilla Apache tribal land and is not available to finance the construction of buildings used for commercial activity.
History:	Originally enacted in 2002.

LEASE FOR SUBSEQUENT LEASE GRT DEDUCTION

Brief Description: Receipts from leasing tangible personal property or licenses used for subsequent lease in the ordinary course of business are deductible from gross receipts.

The lessee must provide a nontaxable transaction certificate to the lessor.

Statutory Basis: 7-9-50 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1972, 1975, 1979, 1983, 1991, and 1992.

LEASE OF CONSTRUCTION EQUIPMENT GRT DEDUCTION

Brief Description: Receipts from leasing construction equipment are deductible from gross receipts if the lease is made to a person engaged in the construction business.

The lessee must present a nontaxable transaction certificate to the lessor and use the construction equipment at the location of:

(1) a construction project that is subject to the GRT upon its completion or upon the completion of the overall construction project of which it is a part;

(2) a construction project that is subject to the GRT upon the sale in the ordinary course of business of the real property upon which it was constructed; or

(3) a construction project that is located on the tribal territory of an Indian nation, tribe, or pueblo.

Statutory Basis: 7-9-52.1 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 2012.

NATURAL GAS ALREADY TAXED
EXEMPTION FROM NATURAL GAS PROCESSORS TAX

Brief Description: The tax shall not be levied more than once on the same natural gas.

Statutory Basis: 7-33-7 NMSA 1978

Intended Purpose: Presumably to avoid double taxation.

History: Originally enacted in 1963 and amended in 1998.

NATURAL RESOURCES SUBJECT TO RESOURCES EXCISE TAX
EXEMPTION FROM GRT

Brief Description: Receipts from the sale or processing of natural resources the severance or processing of which are subject to the resources excise tax are exempt from gross receipts.

Statutory Basis: 7-9-35 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs as the exemption only applies to natural resources the severance of which are subject to the taxes imposed by the Resources Excise Tax Act.

History: Originally enacted in 1969 and amended in 1984 and 1989.

"NET INCOME"
EXEMPTIONS FROM PIT

Brief Description: Income (in the form of interest) derived from U.S. government obligations is excluded from the definition of "net income" and therefore exempt from PIT.

Statutory Basis: 7-2-2(N)(4) NMSA 1978

Intended Purpose: To comply with the preemption doctrine.

History: Originally enacted in 1991.

NONRESIDENT
EXEMPTION FROM ESTATE TAX

Brief Description: The transfer of the personal property of a nonresident is exempt from the estate tax to the extent that the personal property of residents is exempt from taxation under the laws of the state in which the nonresident is domiciled.

Statutory Basis: 7-7-4(D) NMSA 1978

Intended Purpose: Presumably to reduce the administrative commitment between states.

History: Originally enacted in 1973 and amended in 1999.

OCCASIONAL SALE OF PROPERTY OR SERVICES
EXEMPTION FROM GRT

Brief Description: Receipts from the isolated or occasional sale or leasing of property or a service by a person who is not in the business of selling or leasing the same or similar property or service are exempt from GRT.

Statutory Basis: 7-9-28 NMSA 1978

Intended Purpose: Presumably to properly define the tax base.

History: Originally enacted in 1969.

OIL AND GAS OR MINERAL INTERESTS
EXEMPTION FROM GRT

Brief Description: Receipts from the sale or lease of oil, natural gas, or mineral interests are exempt from GRT.

Statutory Basis: 7-9-32 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969.

ONE-WAY HAUL AND EMPTY TRAVEL RATE DIFFERENTIAL FROM WDT

Brief Description: If (1) a motor vehicle is customarily used for one-way haul, (2) the motor vehicle travels empty of all load for at least 45% of the mileage traveled during a registration year, and (3) the registrant of the vehicle has made a sworn application, the tax is two-thirds of the standard WDT.

Statutory Basis: 7-15A-6(B) NMSA 1978

Intended Purpose: Presumably to appropriately tax vehicles according to their wear and tear on New Mexico roads.

History: Originally enacted in 1988 and amended in 2003 (1st SS), and 2004.

PERSONAL EFFECTS EXEMPTION FROM COMPENSATING TAX

Brief Description: The use by an individual of personal or household effects brought into the state in connection with the establishment by the individual of an initial residence in this state and the use of property brought into the state by a nonresident for his/her own nonbusiness use while temporarily within this state are exempt from compensating tax.

Statutory Basis: 7-9-27 NMSA 1978

Intended Purpose: Presumably to avoid a tax burden on anyone relocating to New Mexico.

History: Originally enacted in 1969.

PETROLEUM PRODUCTS EXPORTED FOR RESALE EXEMPTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Petroleum products that are either loaded into cargo tanks in New Mexico and exported for resale and consumption outside of New Mexico or are imported into New Mexico and subsequently exported for resale and consumption outside of New Mexico are exempt from the PPLF.

Statutory Basis: 7-13A-4(A) NMSA 1978

Intended Purpose: Presumably to properly define the tax base and the loading fee typically supports environmental issues related to the storage of fuel in New Mexico.

History: Originally enacted in 1991.

PROCESSORS TAX PAID ON NATURAL RESOURCES EXEMPTION FROM RESOURCES TAX

Brief Description: The taxable value of any natural resource that is processed in New Mexico and on whose taxable value the processors tax is paid is exempt from the resources tax.

Statutory Basis: 7-25-7 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs, as the processors tax on the processed natural resource must be paid to qualify for the exemption.

History: Originally enacted in 1966.

PRODUCTS ALREADY TAXED EXEMPTION FROM OIL AND GAS AD VALOREM PRODUCTION TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-32-8 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is similar to 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959.

PRODUCTS ALREADY TAXED EXEMPTION FROM OIL AND GAS CONSERVATION TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-30-8 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is similar to 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959 and amended in 1989.

PRODUCTS ALREADY TAXED
EXEMPTION FROM OIL AND GAS EMERGENCY SCHOOL TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-31-8 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is similar to 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959.

PRODUCTS ALREADY TAXED
EXEMPTION FROM OIL AND GAS SEVERANCE TAX

Brief Description: The tax shall not be levied more than once on the same product.

Statutory Basis: 7-29-5 NMSA 1978

Intended Purpose: Presumably to avoid double taxation. This is similar to 7-33-7 Natural Gas. This is already taxed under the Natural Gas Processors Tax.

History: Originally enacted in 1959.

PRODUCTS SUBJECT TO OIL AND GAS EMERGENCY SCHOOL TAX
EXEMPTION FROM GRT

Brief Description: Unless the sale of products is for: (1) subsequent resale in the ordinary course of business, (2) consumption outside the state, or (3) use as an ingredient or component part of a manufactured product, receipts from the sale of products are exempt from GRT when they are subject to the oil and gas emergency school tax.

The storage or use of crude oil, natural gas or liquid hydrocarbons for fuel in the operation of a production unit, as defined in the Oil and Gas Emergency School Tax Act, will not be subject to gross receipts tax or compensating tax.

Statutory Basis: 7-9-33 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs, as the exemption only applies to those products the severance of which is subject to the tax imposed by the Oil and Gas Emergency School Tax Act.

History: Originally enacted in 1969 and amended in 1975, 1984, and 1989.

PURCHASE FOR RESALE
EXEMPTION FROM LOCAL LIQUOR EXCISE TAX

Brief Description: Purchases for sale to retailers for resale are exempt from the local liquor excise tax.

Statutory Basis: 7-24-13 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding and define the tax base.

History: Originally enacted in 1989.

PURCHASE OF UNDYED GASOLINE FOR CERTAIN OFF-ROAD USE
REFUND OF GASOLINE TAX

Brief Description: A person using gasoline in the operation of a clothes cleaning establishment, in stoves or other appliances burning gasoline, or operators of aircraft using aviation gasoline exclusively in the operation of aircraft may purchase undyed gasoline and may claim a refund of gasoline tax paid.

Statutory Basis: 7-13-17 NMSA 1978

Intended Purpose: Presumably to recognize that these activities do not contribute to the deterioration of the roads, the maintenance of which is funded through the gasoline tax distributions to the State Road Fund.

History: Originally enacted in 1998.

PURCHASES BY OR ON BEHALF OF THE STATE
GRT DEDUCTION

Brief Description: Receipts from the sale of property or services purchased by or on behalf of the State of New Mexico from funds obtained from the forfeiture of financial assurance pursuant to the New Mexico Mining Act or the forfeiture of financial responsibility pursuant to the Water Quality Act are deductible from gross receipts.

Statutory Basis: 7-9-97 NMSA 1978

Intended Purpose: Presumably to relieve mining companies from the obligation to estimate (and potentially overpay) the GRT cost incurred by a third-party contractor that would complete the reclamation work on behalf of the state in the event the company failed to conduct the reclamation work.

History: Originally enacted in 2005.

REFINERS AND PERSONS SUBJECT TO NATURAL GAS PROCESSORS TAX EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Unless the sale or processing of products are for (1) subsequent resale in the ordinary course of business, (2) consumption outside the state, or (3) use as an ingredient or component part of a manufactured product, receipts from the sale or processing of products that are subject to the natural gas processors tax are exempt from the GRT.

Receipts from storing or using crude oil, natural gas, or liquid hydrocarbons when stored or used in New Mexico by a "processor" or by a person engaged in the business of refining oil, natural gas, or liquid hydrocarbons who stores or uses the crude oil, natural gas, or liquid hydrocarbons in the regular course of his refining business are exempt from GRT and compensating tax.

Statutory Basis: 7-9-34 NMSA 1978

Intended Purpose: Presumably to define the tax base with respect to the first part of the exemption which only applies to the sale or processing of products the processing of which is subject to the natural gas processors tax. The second part of the exemption is presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1970, 1975, 1984, and 1989.

RELIGIOUS ACTIVITIES EXEMPTION FROM GRT

Brief Description: Receipts of a minister of a 501(c)(3) religious organization from performing religious services to an individual recipient of the service are exempt from GRT.

Statutory Basis: 7-9-41 NMSA 1978

Intended Purpose: Presumably to prevent taxation of expenses that are effectively business inputs of a 501(c)(3) religious organization.

History: Originally enacted in 1972.

RESALE ACTIVITIES OF AN ARMED FORCES INSTRUMENTALITY EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Receipts from selling tangible personal property and the use of property by any instrumentality of the armed forces of the United States engaged in resale activities are exempt from GRT and compensating tax.

Statutory Basis: 7-9-31 NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine and to reduce tax pyramiding.

History: Originally enacted in 1969.

RETURNED OR DESTROYED TOBACCO PRODUCTS REFUND OR CREDIT AGAINST TOBACCO PRODUCTS TAX

Brief Description: Taxpayers who have paid the tobacco products tax on tobacco products that are destroyed or returned to the seller by the first purchaser as spoiled or otherwise unfit for sale or consumption are entitled to a refund of or credit against the tobacco products tax.

Statutory Basis: 7-12A-6 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid requiring a taxpayer to pay taxes on unusable tobacco products that have no value.

History: Originally enacted in 1986 and amended in 1988.

SALE OF A SERVICE FOR RESALE GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling a service for resale are deductible from gross receipts or governmental gross receipts.

Statutory Basis: 7-9-48 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid tax pyramiding.

History: Originally enacted in 1969 and amended in 1992, and 2000.

The 2000 amendment clarified that the resale must be subject to the GRT or GGRT in order to qualify for the deduction and removed the requirement that the buyer separately state the value of the service purchased in his charge for the service on it subsequent sale.

SALE OF A SERVICE FOR RESALE DEDUCTION FROM ITGRT

Brief Description: Receipts from providing an interstate telecommunications service that will be used by other persons in providing telephone or telegraph services to the final user are deductible from interstate telecommunications gross receipts.

Statutory Basis: 7-9C-7 NMSA 1978

Intended Purpose: Presumably to define the tax base.

History: Originally enacted in 1992 and amended in 1998.

SALE OF AEROSPACE SERVICES FOR THE U.S. AIR FORCE GRT DEDUCTION

Brief Description: Receipts from performing or selling aerospace research and development for resale to an organization for resale to the U.S., other than a national laboratory, are deductible from gross receipts.

Statutory Basis: 7-9-54.1 NMSA 1978

Intended Purpose: To incentivize the U.S. Air Force to relocate the Space Systems Division) to New Mexico.

History: Originally enacted in 1992 and amended in 1993, 1994, and 1995.

SALE OF GASOLINE AT RETAIL BY A REGISTERED INDIAN TRIBAL DISTRIBUTOR
DEDUCTION FROM GASOLINE TAX

Brief Description: Gasoline received in New Mexico and sold at retail by a registered Indian tribal distributor is deductible from the gasoline tax, to the extent it's taxed by the Indian nation, tribe, or pueblo, if:

(1) the sale occurs on the distributor's Indian reservation, pueblo grant, or trust land,

(2) the gasoline is placed into the fuel supply tank of a motor vehicle on that reservation, pueblo grant, or trust land, and

(3) the Indian nation, tribe, or pueblo has certified that it has in effect an excise, privilege, or similar tax on the gasoline

Statutory Basis: 7-13-4(E) NMSA 1978

Intended Purpose: Presumably to prevent or reduce the effects of multi-jurisdictional taxation.

History: The section was originally enacted in 1991 and amended in 1997, 1998, 1999 and 2007.

The language in this subsection was created by an amendment in 1999.

SALE OF GASOLINE BY A REGISTERED INDIAN TRIBAL DISTRIBUTOR FROM A NON-MOBILE STORAGE CONTAINER DEDUCTION FROM GASOLINE TAX

Brief Description: Gasoline that is received in New Mexico and sold by a registered Indian tribal distributor from a non-mobile storage container within that distributor's Indian reservation, pueblo grant, or trust land for resale outside the Indian reservation, pueblo grant, or trust land is deductible from the gasoline tax as long as the distributor sold at least 1 million gallons of gasoline between May and August 1998 and that the amount of gasoline deducted by a registered Indian tribal distributor doesn't exceed 2.5 million gallons per month.

Statutory Basis: 7-13-4(F) NMSA 1978

Intended Purpose: Presumably to prevent and reduce the effects of multi-jurisdictional taxation.

History: The section was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The language in this subsection was created by an amendment in 1999.

SALE OF TANGIBLE PERSONAL PROPERTY FOR LEASING GRT DEDUCTION

Brief Description: Receipts from selling tangible personal property and licenses to a buyer who leases or sells the tangible personal property or license are deductible from gross receipts.

The buyer must present a nontaxable transaction certificate to the seller.

Statutory Basis: 7-9-49 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid tax pyramiding.

History: Originally enacted in 1969 and amended in 1972, 1975, 1979, 1983, 1989, 1991, and 1992.

SALE OF TANGIBLE PERSONAL PROPERTY FOR RESALE GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling tangible personal property or licenses to a buyer who resells the tangible personal property or license are deductible from gross receipts or from governmental gross receipts.

The buyer must present a nontaxable transaction certificate to the seller.

Statutory Basis: 7-9-47 NMSA 1978

Intended Purpose: Presumably to define the tax base and avoid tax pyramiding.

History: Originally enacted in 1969 and amended in 1992 and 1994.

SALES THROUGH WORLD WIDE WEB SITES GRT DEDUCTION

Brief Description: Receipts derived from the sale of a service or property made through a website to a person with a billing address outside New Mexico are deductible from gross receipts.

Statutory Basis: 7-9-57.1 NMSA 1978

Intended Purpose: Presumably because taxation of interstate commerce is prohibited by the U.S. Constitution's Commerce Clause.

History: Originally enacted in 1998.

SALES TO MANUFACTURERS
GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling tangible personal property that will be incorporated as an ingredient or component part to a person in the manufacturing business are deductible from gross receipts and governmental gross receipts.

Receipts from selling tangible personal property that is consumed in the manufacturing process to a person in the manufacturing business are deductible from gross receipts and governmental gross receipts according to the following schedule:

- 20% of receipts received before January 1, 2014;
- 40% of receipts received in calendar year 2014;
- 60% of receipts received in calendar year 2015;
- 80% of receipts received in calendar year 2016;
- 100% of receipts received on or after January 1, 2017.

Statutory Basis: 7-9-46 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1992, 2012 and 2013.

The 2012 amendment provided the phase-in deduction for the sale of tangible personal property consumed in the manufacturing process (Subsection B).

The 2013 amendment defined the term “consumable.”

SCHOOL BUS
DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Brief Description: Special fuel (number 2 diesel) used in school buses that are contracted with the Public Education Department is deductible from computing the special fuel excise tax due.

Statutory Basis: 7-16A-10(F) NMSA 1978

Intended Purpose: Presumably to reduce the costs to government since the State of New Mexico purchases this fuel.

History: Originally enacted in 1992, 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

SCHOOL BUS EXEMPTION FROM WDT

Brief Description: Use of the highways of New Mexico by school buses is exempt from the WDT.

Statutory Basis: 7-15A-5(A) NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: Originally enacted in 1988 and amended in 2006.

SERVICES ON MANUFACTURED PRODUCTS GRT DEDUCTION

Brief Description: Receipts from selling the service of combining or processing components or materials to a manufacturer are deductible from gross receipts. The service must be performed directly upon the tangible personal property the buyer is in the business of manufacturing or upon the ingredient or component parts thereof.

The buyer must present a nontaxable transaction certificate to the seller.

Statutory Basis: 7-9-75 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the service must be performed directly upon tangible personal property for a manufacturer as part of the readying of raw materials or in the manufacturing process.

History: Originally enacted in 1972.

SERVICES PERFORMED OUTSIDE THE STATE CREDIT AGAINST ITGRT

Brief Description: A taxpayer who has paid a sales, use, gross receipts, or similar tax to another state on the same interstate telecommunications gross receipts that are subject to New Mexico's ITGRT is entitled to a credit against the ITGRT.

Statutory Basis: 7-9C-10 NMSA 1978

Intended Purpose: To comply with U.S. Commerce Clause concerns and prevent actual multi-jurisdictional taxation of the privilege of engaging in business of providing interstate telecommunications services.

History: Originally enacted in 1992.

STOCK BONUS, PENSION, AND PROFIT-SHARING TRUSTS EXEMPTION FROM PIT AND CIT

Brief Description: A trust organized or created in the U.S. and forming part of a stock bonus, pension, or profit-sharing plan of an employer for the exclusive benefit of his employees or their beneficiaries which is exempt from taxation under the provisions of the Internal Revenue Code is exempt from PIT and CIT.

Statutory Basis: 7-2-4(A) and 7-2A-4(B) NMSA 1978

Intended Purpose: To define the tax base.

History: The PIT exemption was originally enacted in 1965 and amended in 1969, 1971, and 1981.

The CIT exemption was originally enacted in 1981 and amended in 1986 and 1989.

TAX PAID BY OUT-OF-STATE TERMINAL DEDUCTION FROM GASOLINE TAX AND SPECIAL FUEL EXCISE TAX

Brief Description: Gasoline and special fuel received in New Mexico on which the New Mexico gasoline tax or special fuel excise tax was paid by the out-of-state terminal at which the gasoline or special fuel was loaded are deductible from computing the gasoline tax or special fuel excise tax due.

Statutory Basis: 7-13-4(G) and 7-16A-10(G) NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax regimes as it is only deductible if the gasoline tax or special fuel excise tax was paid by the out-of-state terminal at which the gasoline was loaded.

History: The gasoline tax section was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The special fuel excise tax section was originally enacted in 1992 and amended in 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

The subsections containing the gasoline tax and the special fuel excise tax deductions discussed here were created by an amendment in 2007.

STADIUM SURCHARGE EXEMPTION FROM GRT AND GGRT

Brief Description: Receipts from sales at a minor league baseball stadium on which a stadium surcharge is imposed under the Minor League Baseball Stadium Funding Act are exempt from gross receipts tax and governmental gross receipts tax.

Statutory Basis: 7-9-13.3 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs.

History: Originally enacted in 2001 as part of the legislation that enacted the Minor League Baseball Stadium Funding Act.

Evaluation: The Minor League Baseball Stadium Funding Act provides an additional method of accessing the capital markets with the assistance of the New Mexico Finance Authority to meet the need for a complete funding package for functional and modern minor league baseball stadiums. Because the Minor League Baseball Stadium Funding Act allows a municipality to impose a stadium surcharge on products and services sold at or related to the stadium, this exemption from the GRT prevents these from being taxed twice.

Isotopes Park, home of the Albuquerque Isotopes, was constructed from 2001 to 2003 at a reported cost of $25 million. The Lab, as it has been nicknamed, opened in April of 2003.

TAX PAID IN ANOTHER STATE FOR PROPERTY AND SERVICES CREDIT AGAINST GRT AND COMPENSATING TAX

Brief Description: The amount of gross receipts, sales, compensating, or similar tax paid to another state on property acquired in that state or another state for use in New Mexico or on services performed outside this state may be credited against the amount of compensating tax due to New Mexico on the use of the property or the GRT due on the services performed outside New Mexico.

Statutory Basis: 7-9-79 and 7-9-79.1 NMSA 1978

Intended Purpose: Presumably to address U.S. Commerce Clause concerns and prevent multi-jurisdictional taxation as gross receipts, sales, compensating, or similar tax must have been levied on the property or services in order to qualify for the credit.

History: The compensating tax credit for property was originally enacted in 1966 and amended in 1973 and 1991.

The GRT credit for services was originally enacted in 1989 and amended in 1994.

TAX PAID ON ALCOHOLIC BEVERAGES DESTROYED IN SHIPMENT, SPOILED, OR OTHERWISE DAMAGED REFUND OF OR CREDIT AGAINST LIQUOR EXCISE TAX AND LOCAL LIQUOR EXCISE TAX

Brief Description: Taxpayers are entitled to a refund for taxes paid pursuant to the liquor excise tax and the local liquor excise tax on alcoholic beverages that are unsaleable and not consumable because they are destroyed in shipment, spoiled, or damaged.

Statutory Basis: 7-17-11 and 7-24-14 NMSA 1978

Intended Purpose: Presumably to define the tax base, by avoiding taxation of a product that is not available to be sold.

History: The liquor excise tax provision was originally enacted in 1968 and amended in 1969, 1971, 1973, 1977, 1984, and 1995.

The local liquor excise tax provision was originally enacted in 1989.

TAX PAID ON GASOLINE OR SPECIAL FUEL DESTROYED BY FIRE, ACCIDENT OR ACTS OF GOD BEFORE RETAIL SALE REFUND OF OR CREDIT AGAINST GASOLINE TAX AND SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer is entitled to a refund of, or credit against, the gasoline tax and special fuel excise tax paid on gasoline and special fuel that is destroyed by fire, accident, or acts of God while in the possession of the distributor, wholesaler, or retailer.

Statutory Basis: 7-13-11 and 7-16A-13 NMSA 1978

Intended Purpose: Presumably to ensure that taxes aren't paid on gasoline and special fuel which the taxpayer is unable to market.

History: The gasoline tax credit and refund section was originally enacted in 1971 and amended in 1983 and 1993.

The special fuel excise tax credit and refund section was originally enacted in 1992.

TAX PAID ON SPECIAL FUEL IN CERTAIN CIRCUMSTANCES
REFUND OF SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer is entitled to a refund of the special fuel excise tax paid on special fuel used:

(1) in a school bus (authorized by contract with the Public Education Department),

(2) to propel a vehicle off-road,

(3) to operate auxiliary equipment by a power take-off from the main engine or transmission of a vehicle, or

(4) to operate a non-automotive apparatus vehicle.

Statutory Basis: 7-16A-13.1 NMSA 1978

Intended Purpose: Presumably, in the case of the school bus refund, to reduce the costs to government and to recognize that the other activities do not contribute to the deterioration of the roads, the maintenance of which is funded through the special fuel excise tax distributions to the State Road Fund.

History: Originally enacted in 2001 and amended in 2005 and 2006.

TAX PAID TO ANOTHER STATE
CREDIT AGAINST MVX

Brief Description: A vehicle that has been acquired through an out-of-state transaction upon which a gross receipts, sales, compensating or similar tax was paid may be credited against the MVX due to New Mexico on the same vehicle.

Statutory Basis: 7-14-7 NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation.

History: Originally enacted in 1988.

TAX PAID TO ANOTHER STATE DEDUCTION FROM GASOLINE TAX AND SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer may deduct gasoline and special fuel when computing the gasoline tax and special fuel excise tax if it is exported from New Mexico by a rack operator, distributor, or wholesaler as long as:

(1) the person exporting the gasoline and special fuel is registered in or licensed by the destination state to pay that state's gasoline or equivalent fuel tax,

(2) proof is submitted that the destination state's gasoline, special fuel, or equivalent fuel tax has been paid or is not due, or

(3) the destination state's gasoline, special fuel, or equivalent fuel tax in paid to New Mexico in accordance with the terms of an agreement entered into with the destination state.

Statutory Basis: 7-13-4(A) and 7-16A-10(A) NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation as the deduction is only available if proof is submitted that the destination state's gasoline tax was paid or is not due.

History: The gasoline tax deduction was originally enacted in 1991 and amended in 1997, 1998, 1999, and 2007.

The special fuel excise tax deduction was originally enacted in 1992 and amended in 1993, 1997, 1998, 2001, 2005, 2006, 2007, 2009, and 2013.

TAX PAID TO ANOTHER STATE CREDIT AGAINST ESTATE TAX

Brief Description: A credit against the estate tax is available when any property of a resident is subject to an estate tax imposed by another state when the other state's tax does not have a reciprocal provision. The credit amount would be for the lesser of:

(1) the amount of the estate tax paid the other state and credited against the federal estate tax, or

(2) an amount computed by multiplying the federal credit the percentage of the estate that the property represents.

Statutory Basis: 7-7-3(B) NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation as it is only available to the extent that taxes were paid to another state.

History: Originally enacted in 1973.

TAX PAID TO NAVAJO NATION FOR SELLING COAL SEVENTY-FIVE PERCENT CREDIT AGAINST GRT

Brief Description: A taxpayer is entitled to a credit against the GRT for 75% of the amount of tax paid to the Navajo Nation on the receipts from the selling of coal severed from Navajo Nation land.

Statutory Basis: 7-9-88.2 NMSA 1978

Intended Purpose: Presumably to address the increased tax burdens associated with multi-jurisdictional tax.

History: Originally enacted in 2001.

TAX PAID TO NEW MEXICO TRIBES
EXEMPTION FROM ITGRT

Brief Description: Excluded from the definition of "interstate telecommunications gross receipts" are gross receipts or sales taxes imposed by Indian nations, tribes, or pueblos as long as the Indian nation, tribe, or pueblo tax provides a reciprocal exclusion for GRT imposed by New Mexico.

Statutory Basis: 7-9C-2(E)(2) NMSA 1978

Intended Purpose: Presumably to avoid multi-jurisdictional taxation.

History: Originally enacted in 1992 and amended in 1993 and 2002.

TAX PAID TO NEW MEXICO TRIBES
SEVENTY-FIVE PERCENT CREDIT AGAINST GRT

Brief Description: A taxpayer is entitled to a credit against the GRT for 75% of the amount of tax paid to any of the 19 New Mexico Pueblos, the Jicarilla Apache Nation or the Mescalero Apache Tribe on taxable transactions taking place on tribal lands.

Statutory Basis: 7-9-88.1 NMSA 1978

Intended Purpose: Presumably to prevent multi-jurisdictional taxation.

History: Originally enacted in 1999 and amended in 2000, 2001 and 2003.

TAXES PAID TO OTHER STATES CREDIT AGAINST PIT

Brief Description: When a resident individual is liable to another state for tax upon income derived from sources outside New Mexico but also included in net income allocated or apportioned to New Mexico, the individual is entitled to a credit against the tax due to New Mexico in the amount of the tax paid to the other state.

Statutory Basis: 7-2-13 NMSA 1978

Intended Purpose: To prevent multi-jurisdictional taxation. Taxation of interstate commerce is prohibited by the U.S. Constitution's Commerce Clause.

History: Originally enacted in 1965 and amended in 1973, 1974, 1981, 1990, 1992, and 2013.

The 2013 amendment limited the tax credit paid to the amount of tax liability in New Mexico.

TELECOMMUNICATION PROVIDERS DEDUCTION FROM ITGRT

Brief Description: Receipts from interstate telecommunications services that are provided by a corporation to itself or to an affiliated corporation may be deducted from interstate telecommunications gross receipts.

Statutory Basis: 7-9C-8 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1992 and amended in 1993.

TRADE-IN ALLOWANCE
GRT, MVX, AND DEDUCTIONS

Brief Description: Receipts from a trade-in of tangible personal property of the same type being sold are deductible from gross receipts; allowances granted for vehicle trade-ins are deductible from the price paid or the reasonable value of the vehicle purchased in calculating the MVX and the LVGRT.

Statutory Basis: 7-9-71, 7-14-4 and 7-14A-8 NMSA 1978

Intended Purpose: Presumably to properly define the tax base.

History: The GRT deduction was originally enacted in 1969 and amended in 1979, and 1991.

The MVX deduction was originally enacted in 1988.

The LVGRT deduction was originally enacted in 1991.

TRANSACTIONS IN INTERSTATE COMMERCE
GRT AND GGRT DEDUCTION

Brief Description: Receipts from transactions in interstate commerce and from sales of radio or television broadcast time if the ultimate buyer is a national or regional advertiser are deductible from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-55 NMSA 1978

Intended Purpose: Presumably because taxation of interstate commerce is prohibited by the U.S. Constitution's Commerce Clause.

History: Originally enacted in 1969 and amended in 1986 and 1993.

TRANSACTIONS IN INTRASTATE TRANSPORTATION AND SERVICES IN INTERSTATE COMMERCE GRT DEDUCTION

Brief Description: Receipts incurred when transporting persons or property on an intrastate basis and under a single contract for transportation in interstate or foreign commerce (including handling, storage, drayage, or packing of property or other accessorial services on property) are deductible from gross receipts.

Receipts from telephone access charges paid by other telephone carriers are deductible.

Statutory Basis: 7-9-56 NMSA 1978

Intended Purpose: Presumably to address U.S. Commerce Clause concerns and comport with the preemption doctrine with respect to the transportation deduction as the transportation must be part of an interstate commerce transaction to be eligible for the deduction.

With regard to the telephone service portion of the deduction, the intended purpose is presumably to prevent double taxation.

History: Originally enacted in 1994.

TRANSPORTATION FROM WITHIN THE MUNICIPALITY TO OUTSIDE THE MUNICIPALITY
EXEMPTION FROM LOCAL OPTION GRT

Brief Description: The transporting of persons or property for hire by any means from one point within the municipality (or county) to another point outside the municipality (or county) are exempt from the supplemental municipal GRT, the municipal local option GRT, the local hospital GRT, the county local option GRT, and the county correctional facility GRT.

Statutory Basis: 7-19-14(A), 7-19D-5(A), 7-20C-5, 7-20E-5, and 7-20F-6 NMSA 1978

Intended Purpose: Presumably to resolve a jurisdictional question and provide certainty about the tax rate that applies in this situation.

History: The supplemental municipal GRT exemption was originally enacted in 1979 and amended in 1983 and 1994.

The municipal and county local option GRTs exemptions were originally enacted in 1993 and amended in 1994.

The county correctional facility GRT was originally enacted in 1993.

The local hospital GRT exemption was originally enacted in 1991 and amended in 1994.

UNCOLLECTIBLE DEBTS
GRT AND GGRT DEDUCTION

Brief Description: Refunds and allowances made to buyers or amounts written off the books as an uncollectible debt by a person reporting gross receipts tax and governmental gross receipts on an accrual basis may be deducted from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-67 NMSA 1978

Intended Purpose: Presumably to avoid requiring a taxpayer to pay taxes on refunded or uncollectible receipts.

History: Originally enacted in 1969 and amended in 1994.

UNPAID CHARGES FOR HOSPITAL SERVICES CREDIT AGAINST GRT

Brief Description: A licensed medical doctor or licensed osteopathic physician may claim a credit against gross receipts taxes due for the value of unpaid qualified health care services. Qualified health care services must be provided by the doctor or physician while on call to a hospital.

Statutory Basis: 7-9-96.2 NMSA 1978

Intended Purpose: Presumably to avoid requiring a taxpayer to pay taxes on non-existent receipts.

History: Originally enacted in 2007.

USE OF TANGIBLE PERSONAL PROPERTY FOR LEASING DEDUCTION FROM COMPENSATING TAX

Brief Description: The value of tangible personal property held for lease by a person engaged in the business of selling or leasing the same type property may be deducted before computing compensating tax due; however, it does not apply to the value of furniture or appliances furnished as part of a rent house or apartment, coin-operated machines, or manufactured homes.

Statutory Basis: 7-9-78 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1973, 1975, 1979, 1981, 1984, and 1991.

VEGETABLE OIL OR ANIMAL FAT BIODIESEL DEDUCTION FROM SPECIAL FUEL EXCISE TAX

Category: Environment, Conservation & Renewable Energy

Brief Description: Biodiesel that is blended or resold at a rack in New Mexico is deductible from the special fuel excise tax

Statutory Basis: 7-16A-10(H)(1) and (2) NMSA 1978

Intended Purpose: Presumably to prevent double taxation.

History: Originally enacted in 2009 and amended in 2013. The 2013 amendment changed a definition of the fuel as consisting of at least 99% vegetable oil or animal fat in favor of just using the term ‘biodiesel’.

VEHICLE THAT IS OWNED BY THE STATE OF NEW MEXICO EXEMPTION FROM MVX

Brief Description: A vehicle with a certificate of title owned by New Mexico or any political subdivision is exempt from MVX.

Statutory Basis: 7-14-6(C) NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: Originally enacted in 1988, and amended in 1990, 1994, 2004, and 2007.

VEHICLE THAT WAS PREVIOUSLY REGISTERED IN NEW MEXICO EXEMPTION FROM MVX

Brief Description: A person applying for a certificate of title for a vehicle registered in another state is exempt from the tax if the person has previously registered and titled the vehicle in New Mexico and has owned the vehicle continuously since that time.

Statutory Basis: 7-14-6(B) NMSA 1978

Intended Purpose: Presumably to prevent double taxation (twice in New Mexico).

History: Originally enacted in 1988, and amended in 1990, 1994, 2004, and 2007.

VEHICLES
EXEMPTIONS FROM GRT AND COMPENSATING TAX

Brief Description: The receipts from selling vehicles on which a tax is imposed by the Motor Vehicle Excise Tax Act, vehicles registered by persons with significant mobility limitations, and vehicles exempt from the MVX pursuant to Section 7-14-6(F) NMSA 1978 are exempt from GRT.

The use of vehicles used in New Mexico on which the tax imposed by the Motor Vehicle Excise Tax Act has been paid, the use of vehicles subject to registration under the Motor Vehicle Code and the use of vehicles exempt from MVX pursuant to Section 7-14-6(F) NMSA 1978 are exempt from compensating tax.

Statutory Basis: 7-9-22 and 7-9-23 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs, as the exemption only applies to vehicles on which a tax is imposed pursuant to the Motor Vehicle Excise Tax Act.

History: The GRT exemption was originally enacted in 1969 and amended in 1976, 1981, 1988, and 2004.

The compensating tax exemption was originally enacted in 1969 and amended in 1976, 1983, 1988, and 2004.

VEHICLES USED FOR SHORT-TERM LEASING
CREDIT AGAINST MVX

Brief Description: The MVX is suspended for vehicles used primarily as short-term rental vehicles that are part of a vehicle fleet of at least five vehicles that are subject to the leased vehicle gross receipts tax.

Statutory Basis: 7-14-7.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple tax programs.

History: Originally enacted in 1991 and amended in 1993 and 1994.

VEHICLES USED IN INTERSTATE COMMERCE GRT DEDUCTION

Brief Description: Receipts from the rental or leasing of vehicles used in the transportation of passengers or property for hire in interstate commerce under the regulations or authorization of any agency of the U.S. are deductible from GRT.

Statutory Basis: 7-9-70 NMSA 1978

Intended Purpose: Presumably because taxation of interstate commerce is prohibited by the U.S. Constitution's Commerce Clause.

History: Originally enacted in 1969.

WAGES EXEMPTION FROM GRT

Brief Description: Receipts of employees from wages, salaries, commissions or from any other form of remuneration for personal services are exempt from GRT.

Statutory Basis: 7-9-17 NMSA 1978

Intended Purpose: Presumably to define the tax base.

History: Originally enacted in 1969.

WARRANTY OBLIGATIONS GRT DEDUCTION

Brief Description: Receipts of a dealer from furnishing goods or services to the purchaser of tangible personal property to fulfill a warranty obligation of the manufacturer of the property may be deducted from gross receipts.

Statutory Basis: 7-9-68 NMSA 1978

Intended Purpose: Presumably to properly define the tax base, as the cost of the warranty is part of cost of the good or service and taxes were paid on it at the time of the original purchase.

History: Originally enacted in 1969.

ARGUABLE

While many of the deviations from New Mexico's many tax programs are easily categorized as either "Tax Expenditures" or "Not Tax Expenditures", there are a number about which good arguments could be made for both. With a few others, the purpose of the deviation is not entirely clear; without knowing why the deviation was put in the code, it is not possible to determine in which category it belongs.

As with the "Not Tax Expenditures" section, we believe that including information about these deviations, even without analysis of the fiscal impact, makes the reader better informed about the New Mexico tax structure.

ADMINISTRATIVE AND ACCOUNTING SERVICES GRT DEDUCTION

Brief Description: Receipts of a business entity for administrative, managerial, accounting, and customer services performed by it for an affiliate upon a nonprofit or cost basis are deductible from gross receipts.

Receipts of a business entity from an affiliate for the joint use or sharing of office machines and facilities upon a nonprofit or cost basis are deductible from gross receipts.

Statutory Basis: 7-9-69 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1990, 1993, 1998, 2002, and 2015.

AGRICULTURAL PRODUCTS EXEMPTION FROM GRT AND GGRT

Brief Description: Receipts from selling livestock, including horses, and the receipts of growers, producers and trappers from selling live poultry, unprocessed agricultural products (for example, a bale of hay, a head of lettuce or an unroasted sack of green chili), hides or pelts are exempt from the GRT and GGRT.

Receipts from selling dairy products at retail are not exempt from the GRT.

Statutory Basis: 7-9-18 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1991, 1992, 1993, and 2011.

The 2011 amendment expanded the deduction by defining "livestock" as all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and includes horses, asses, mules, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico.

Evaluation: This deduction cannot be completely considered an anti-pyramiding device, as there is no limitation that the receipts come from the sale of goods that are intermediate goods, or that are for resale. However, it is not possible to determine which portion is attributable to resale activities and which is not.

CERTAIN COMMISSIONS
GRT DEDUCTION

Brief Description: Receipts derived from commissions from sales of tangible personal property when the property sold is not subject to gross receipts tax are deductible from gross receipts.

Receipts of the owner of a dealer store for selling a principal's goods are deductible from gross receipts.

Statutory Basis: 7-9-66 NMSA 1978

Intended Purpose: Presumably to avoid double taxation since commissions are taxable as personal income.

History: Originally enacted in 1969 and amended in 1999.

CERTAIN SALES FOR RESALE
TEN PERCENT CREDIT AGAINST GRT AND GGRT

Brief Description: A taxpayer may claim a credit against GRT and GGRT for receipts from selling services for resale as long as the resale is in the ordinary course of business, the resale is *not* subject to either GRT or GGRT, and the buyer delivers to the seller appropriate documentation from TRD that the resale meets the criteria for resale in the ordinary course of business.

Statutory Basis: 7-9-96 NMSA 1978

Intended Purpose: Presumably to remove the tax burden from the "sellers of services for resale" that will not be taxed at the final sale.

History: Originally enacted in 2005.

FEED AND FERTILIZER & AUCTIONEERS SELLING LIVESTOCK AND AGRICULTURAL PRODUCTS AT AUCTION GRT DEDUCTION

Brief Description: Receipts from selling feed for livestock, fish, poultry, or animals raised for their hides/pelts and from selling seeds, roots, bulbs, plants, soil conditioners, fertilizers, insecticides, germicides, insects used to control populations of other insects, fungicides or weedicides or water for irrigation purposes are deductible from gross receipts.

Statutory Basis: 7-9-58 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1977, 1983, 1991, 1992 and 2002.

GROSS AMOUNTS WAGERED EXEMPTION FROM GRT

Brief Description: Exempted from GRT are receipts of a horse racetrack which are authorized by the Horse Racing Act to be retained by a horse racetrack that is licensed to conduct horse races.

Statutory Basis: 7-9-40(B) NMSA 1978

Intended Purpose: Presumably to avoid taxing receipts over gross amounts wagered which are under no authority to be spent by a horse racetrack.

History: Originally enacted in 1970 and amended in 1971, 1985, and 1989.

Recommendation: Update the statute to reflect the correct citation. It currently references Section 60-1-10 NMSA 1978 which was repealed in 2007. Presumably the intention is for it to reference the successor statute which appears to be Section 60-1A-19 NMSA 1978.

INSURANCE COMPANIES
EXEMPTION FROM GRT

Brief Description: The receipts of insurance companies or any agent thereof from premiums and any consideration received by a property bondsman as security or surety for a bail bond in connection with a judicial proceeding are exempt from GRT.

Statutory Basis: 7-9-24 NMSA 1978

Intended Purpose: Presumably to prevent taxation under multiple tax programs, as the receipts of insurance companies are subject to the insurance premium tax and presumably to ensure that considerations received as security of surety for a bail bond are not taxed as they are not rightly considered receipts.

History: Originally enacted in 1969 and amended in 1988.

LIVESTOCK FEEDING
EXEMPTION FROM GRT

Brief Description: Receipts from feeding (including penning or handling livestock prior to sale and training livestock) or pasturing livestock, are exempt from GRT.

Statutory Basis: 7-9-19 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969 and amended in 1974, 1991, and 1992.

PETROLEUM PRODUCTS SOLD TO THE FEDERAL GOVERNMENT
EXEMPTION FROM PETROLEUM PRODUCTS LOADING FEE

Brief Description: Petroleum products sold to the U.S. or any agency or instrumentality thereof for the exclusive use of the U.S. or any agency or instrumentality thereof are exempt from the PPLF.

Statutory Basis: 7-13A-4(B) NMSA 1978

Intended Purpose: Presumably to reduce the cost to the U.S. government.

History: Originally enacted in 1991.

PIPELINE TRANSPORTATION OF OIL AND GAS PRODUCTS EXEMPTION FROM GRT AND COMPENSATING TAX

Brief Description: Receipts from the sale of oil, natural gas, liquid hydrocarbon, or any combination thereof consumed as fuel in the pipeline transportation of such products are exempt from GRT.

The use of oil, natural gas, liquid hydrocarbon or any combination thereof as fuel in the pipeline transportation of such products is exempt from compensating tax.

Statutory Basis: 7-9-36 and 7-9-37 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: The GRT and compensating exemptions were originally enacted in 1969.

PROCESSING AGRICULTURAL PRODUCTS GRT DEDUCTION

Brief Description: Receipts from warehousing grain or other agricultural products and from threshing, harvesting, growing, cultivating, and processing agricultural products are deductible from gross receipts.

Statutory Basis: 7-9-59 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1969, and amended in 1970, and 2000.

RECEIPTS OF HOMEOWNERS ASSOCIATIONS EXEMPTION FROM GRT

Brief Description: Receipts of homeowners' associations (HOA) from membership fees, dues, and assessments from owner-members to be used for tax, insurance, utility expenses, management and improvement, maintenance or rehabilitation of those common areas, elements, or facilities appurtenant thereto for commonly-owned areas and facilities are exempt from GRT.

Statutory Basis: 7-9-20 NMSA 1978

Intended Purpose: Presumably to provide clarification that a HOA can be recognized as a 501(c)(4) organization to qualify for this exemption if its activities benefit a community.

History: Originally enacted in 1988.

RESALE OF CERTAIN MANUFACTURED HOMES GRT DEDUCTION

Brief Description: Receipts from the resale of a manufactured home which was subject to GRT, compensating tax, or MVX upon its original sale or use in New Mexico are deductible from gross receipts.

Statutory Basis: 7-9-76.1 NMSA 1978

Intended Purpose: Presumably to avoid taxation under multiple programs, as the deduction only applies if the initial sale was subject to the GRT, the compensating tax, or the MVX.

History: Originally enacted in 1979 and amended in 1980, 1990, and 1991.

SALE BY OR TO U.S. ARMED FORCES EXEMPTION FROM LIQUOR EXCISE TAX AND LOCAL LIQUOR EXCISE TAX

Brief Description: Alcoholic beverages sold to or by any instrumentality of the U.S. armed forces that are engaged in resale activities are exempt from the liquor excise tax and the local liquor excise tax.

Statutory Basis: 7-17-9 and 7-24-12 NMSA 1978

Intended Purpose: Presumably to comply with the preemption doctrine with respect to sales by U.S. instrumentalities.

History: The liquor excise tax exemption was originally enacted in 1966 and amended in 1973, 1984, and 1985.

The local liquor excise tax exemption was originally enacted in 1989.

SALE OF PROSTHETIC DEVICES GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling prosthetic devices to persons licensed to practice in a number of medical disciplines are deductible from gross receipts and governmental gross receipts.

The buyer must deliver a nontaxable transaction certificate and must deliver the prosthetic device incidental to the performance of a service and must include the value of the prosthetic device in his charge for the service.

Statutory Basis: 7-9-73 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding as the value of the prosthetic must be fully included in the final price of the service, and the nature of the final sale will determine whether it is taxable or not.

History: Originally enacted in 1970 and amended in 1992.

SALE OR LEASE OF REAL PROPERTY & LEASE OF MANUFACTURED HOMES GRT DEDUCTION

Brief Description: Receipts from the sale or lease of real property, which includes the land and any permanent fixtures, from the lease of a manufactured home for at least one month, and from the rental of space for a manufactured home or recreational vehicle for at least one month, are deductible from gross receipts.

Statutory Basis: 7-9-53 NMSA 1978

Intended Purpose: Presumably to reduce tax burdens associated with occupancy of residential and commercial spaces on a non-transient basis.

History: Originally enacted in 1969 and amended in 1972, 1973, 1975, 1979, 1983, 1991, and 1998.

SALES TO FEDERAL GOVERNMENT, STATE OF NEW MEXICO, OR NEW MEXICO TRIBES EXEMPTION FROM CIGARETTE TAX AND TOBACCO PRODUCTS TAX

Brief Description: Sales of cigarettes and tobacco products to the U.S., the State of New Mexico, or an Indian nation, tribe, or pueblo are exempt from the cigarette tax and the tobacco products tax.

Statutory Basis: 7-12-4 and 7-12A-4 NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: The cigarette tax exemption was originally enacted in 1943. Section 7-12-4 NMSA 1978 was amended in 1971, 1992, and 2010. The 2010 legislation also included an increase of the cigarette tax by $0.75 per pack.

The tobacco products tax was originally enacted in 1986. Section 7-12A-4 NMSA 1978 amended in 2009 to expand the exemption to include the sale of tobacco to tribes or tribal members.

SALES TO GOVERNMENTAL AGENCIES GRT AND GGRT DEDUCTION

Brief Description: Receipts from selling tangible personal property to the U.S., the State of New Mexico, or an Indian nation, tribe, or pueblo for use on an Indian reservation or pueblo grant are deductible from gross receipts and governmental gross receipts.

Statutory Basis: 7-9-54 NMSA 1978

Intended Purpose: Presumably to reduce the costs to government.

History: Originally enacted in 1969 and amended in 1976, 1985, 1989, 1992, 1993, 1995, 2000, 2001, and 2003.

TAX PAID ON SPECIAL FUEL USED
CREDIT AGAINST SPECIAL FUEL EXCISE TAX

Brief Description: A taxpayer is entitled to a credit against the calculated special fuel excise tax due for a reporting period for special fuel excise tax paid on special fuel used during the reporting period.

Statutory Basis: 7-16A-12 NMSA 1978

Intended Purpose: Presumably to avoid requiring a taxpayer to pay taxes on fuel that is not available to be sold.

History: Originally enacted in 1992 and amended in 1997.

TRAVEL AGENTS' COMMISSIONS
GRT DEDUCTION

Brief Description: Receipts of travel agents from commissions paid by maritime transportation companies, and interstate airlines, railroads and passenger buses for booking, referral, reservation, or ticket services are deductible from gross receipts.

Statutory Basis: 7-9-76 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 1977.

USE OF ELECTRICITY
EXEMPTION FROM COMPENSATING TAX

Brief Description: Electricity used in the production and transmission of electricity, including transmission using voltage source conversion technology is exempt from the compensating tax.

Statutory Basis: 7-9-38 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding

History: Originally enacted in 1969 and amended in 2012.

The 2012 amendment expanded the exemption to include electricity used in the transmission of electricity using voltage source conversion technology.

VETERINARY MEDICAL FOR TREATMENT OF CATTLE GRT DEDUCTION

Brief Description: Receipts from sales of veterinary medical services, medicine or medical supplies used in the medical treatment of cattle may be deducted from gross receipts if the sale is made to:

(1) a person who states in writing that the person is regularly engaged in the business of ranching or farming, including dairy farming, in New Mexico, or

(2) a veterinarian who is providing veterinary medical services, medicine, or medical supplies in the treatment of cattle owned by that person.

Statutory Basis: 7-9-109 NMSA 1978

Intended Purpose: Presumably to reduce tax pyramiding.

History: Originally enacted in 2007.

WIDE-AREA TELEPHONE AND PRIVATE COMMUNICATIONS SERVICE DEDUCTION FROM ITGRT

Brief Description: Receipts from the provision of wide-area telephone service and private communications service in this state may be deducted from interstate telecommunications gross receipts.

Statutory Basis: 7-9C-6 NMSA 1978

Intended Purpose: Unclear.

History: Originally enacted in 1992 and amended in 1993.

APPENDIX A: TABLE OF EXPENDITURES BY CATEGORY

Citizen Benefit Expenditures	
Name of Expenditure	**Statute**
Affordable Housing Credit against Modified Combined Tax, PIT, or CIT	7-9I-5
Armed Forces Salaries Exemption from PIT	7-2-5.11
Back-to-School Tax-Free Weekend Deduction from GRT	7-9-95
Buses Operated by Religious and Nonprofit Charitable Organizations Exemption from WDT	7-15A-5(C)
Capital Gain Deduction from PIT	7-2-34
Certain Disabled Military Veteran Exemption from MVX	7-14-6(E)
Child Care to Prevent Indigency Credit against PIT	7-2-18.1
Contributions of Inventory to Nonprofit Organizations or Governmental Agencies Deduction from Compensating Tax	7-9-91
Corporate-Supported Child Care Credit against CIT	7-2A-14
Disabled Person Exemption from MVX	7-14-6(D)
Disabled Street Vendors Exemption from GRT	7-9-41.3
Education Trust Fund Payment Deduction from PIT	7-2-32
Electronic ID Reader Credit against PIT and CIT	7-2-18.8 and 7-2A-18
Excess of Elderly Taxpayers Maximum Property Tax Liability Rebate from PIT	7-2-18
Fees from Social Organizations Exemption from GRT	7-9-39
Hybrid Vehicle Exemption from MVX	7-14-6(G)
Job Mentorship Credit against PIT and CIT	7-2-18.11 and 7-2A-17.1
Loan-Related Costs GRT Deduction	7-9-61.1
Low- and Middle-Income Taxpayers Exemption from PIT	7-2-5.8
Low-Income Comprehensive Tax Rebate and Property Tax Rebate against PIT	7-2-14(A) and 7-2-14.3
Medical Care Savings Account Exemption from PIT	7-2-5.6
New Mexico National Guard Member Premiums Paid for Group Life Insurance Exemption from PIT	7-2-5.10
Nonathletic Special Event at New Mexico State University GRT Deduction	7-9-104
Nonprofit Elderly Care Facility Exemption from GRT	7-9-16
Nonprofit Organizations Exemption from GRT	7-9-29
Nonprofit Organizations Fundraisers GRT Deduction	7-9-85
Officiating at New Mexico Activities Association Events Exemption from GRT	7-9-41.4
Organ Donation Deduction from PIT	7-2-36
Persons One Hundred and Older Exemption from PIT	7-2-5.7
Persons Sixty-Five and Older or Blind Exemption from PIT and a Comprehensive Tax Rebate	7-2-5.2 and 7-2-14(C)
Preservation of Cultural Property Credit against PIT and CIT	7-2-18.2 and 7-2A-8.6
Sale of Food at Retail Food Stores GRT Deduction and Hold Harmless Distribution	7-9-92 and 7-1-6.46, 7-1-6.47
Sale of Textbooks in Certain Bookstores Exemption from GRT	7-9-13.4

Sales to Nonprofit Organizations GRT, GGRT, and Compensating Tax Deduction	7-9-60, 7-9-15
Special Needs Adopted Child Credit against PIT	7-2-18.16
Unreimbursed or Uncompensated Medical Care Expenses Credit From PIT	7-2-18.13
Unreimbursed or Uncompensated Medical Care Expenses Deduction From PIT	7-2-37
Unreimbursed or Uncompensated Medical Care Expenses Exemption From PIT	7-2-5.9
Vehicles Titled before July 1, 1991 Exemption from LVGRT	7-14A-9
Veteran Employment Credit against PIT and CIT	7-2-18.28 and 7-2A-27
Welfare-to-Work Credit against PIT and CIT	7-2-18.5 and 7-2A-8.8
Working Families Credit against PIT	7-2-18.15

Economic Development Expenditures	
Name of Expenditure	**Statute**
Aircraft Sales or Services GRT Deduction	7-9-62.1
Alternative Energy Product Manufacturers Credit against Modified Combined Tax	7-9J-1 *et seq.*
Angel Investment Credit against PIT	7-2-18.17
Apportionment Election of CIT For Manufacturers	7-4-10(B)
Apportionment Election of CIT For Headquarters	7-4-10(C)
Business Facility Rehabilitation Credit against PIT and CIT	7-2-18.4 and 7-2A-15
Commercial Motor Carrier Vehicles Operating Exclusively within 10 Miles of Mexico Border Exemption from Trip Tax and WDT	7-15-3.2 and 7-15A-5(D)
Film and Television Credit against PIT and CIT	7-2F-1 *et seq.*
High-Wage Jobs Credit against Modified Combined Tax	7-9G-1
Hosting World Wide Web Sites GRT Deduction	7-9-56.2
Investment Credit against GRT, Compensating Tax, or Withholding Tax	7-9A-1 *et seq.*
Investment Management or Advisory Services GRT Deduction	7-9-108
Jet Fuel Fifty-Five Percent GRT and Compensating Tax Deduction	7-9-83 and 7-9-84
Laboratory Partnership with Small Business Credit against GRT	7-9E-1 *et seq.*
Research and Development Small Business Credit against GRT or Fifty Percent Credit against Withholding Tax	7-9H-1 *et seq.*
Rural Job Credit against Modified Combined Tax, PIT, and CIT	7-2E-1.1
Sale of Certain Services to an Out-of-State Buyer GRT Deduction	7-9-57
Sales to Qualified Film Production Company GRT and GGRT Deduction	7-9-86
Sales to State-Chartered Credit Unions GRT and GGRT Deduction	7-9-61.2
Technology Jobs and Research and Development Credit against GRT, Compensating Tax, Withholding Tax, PIT, or CIT	7-9F-1 *et seq.*
TIDD – Tax Increment for Development District Dedicated Increments	5-15-15
Venture Capital Investment Credit against PIT	7-2D-8.1

Environment, Conservation & Renewable Energy Expenditures	
Name in TER	**Statute**
Advanced Energy Credit against GRT, Compensating Tax, Withholding Tax, PIT, or CIT	7-2-18.25, 7-2A-25, and 7-9G-2
Advanced Energy GRT and Compensating Tax Deduction	7-9-114
Agricultural Biomass Credit against PIT and CIT	7-2-18.26 and 7-2A-26
Agricultural Water Conservation Expenses Credit against PIT and CIT	7-2-18.20 and 7-2A-22
Biodiesel Blending Facility Tax Thirty Percent Credit against GRT and Compensating Tax	7-9-79.2
Biomass-Related Equipment and Biomass Materials Deduction from Compensating Tax	7-9-98
Blended Biodiesel Fuel Credit against PIT and CIT	7-2-18.21, 7-2A-23
Conveyance of Land for Conservation or Preservation Fifty Percent Credit against PIT and CIT	7-2-18.10 and 7-2A-8.9
Geothermal Ground-Coupled Heat Pump Credit against PIT and CIT	7-2-18.24 and 7-2A-24
Renewable Energy Production Credit against PIT and CIT	7-2-18.18 and 7-2A-19
Solar Energy Systems GRT Deduction	7-9-112
Solar Market Development Credit against PIT	7-2-18.14
Sustainable Building Credit against PIT and CIT	7-2-18.19 and 7-2A-21
Wind and Solar Generation Equipment GRT Deduction	7-9-54.3

Health Care Incentive	
Name in TER	**Statute**
Construction Equipment and Materials Used in the Construction of Sole Community Provider Hospitals GRT Deduction	7-9-100
Construction of Sole Community Provider Hospitals GRT Deduction	7-9-99
DOH-Licensed Hospitals Credit against GRT	7-9-96.1
DOH-Licensed Hospitals Fifty Percent GRT Deduction	7-9-73.1
Health Care Practitioner Services GRT Deduction and Hold Harmless Distribution	7-9-93, 7-1-6.46, and 7-1-6.47
Hearing and Vision Aids GRT Deduction	7-9-111
Penalty Pursuant to Section 7-1-71.2 NMSA 1978 Credit Against GRT, Compensating Tax and Withholding Tax	7-9-105
Physician Participating in Cancer Treatment Clinical Trials Credit against PIT	7-2-18.27
Prescription Drugs and Oxygen GRT and GGRT Deduction	7-9-73.2
Rural Health Care Practitioner Credit against PIT	7-2-18.22
Tax Stamps Rate Differential in Cigarette Tax	7-12-7(D)

Highly Specialized Industry Expenditures	
Name in TER	**Statute**
Border-Zone Trade-Support Company GRT Deduction	7-9-56.3
Buses Used for Transportation of Agricultural Laborers Exemption from WDT	7-15A-5(B)
Coal Exemption from Severance Surtax	7-26-6.2
Electric Transmission and Storage Facilities GRT and Compensating Tax Deduction	7-9-101 and 7-9-102
Electric Transmission and Storage Facilities Services GRT Deduction	7-9-103
Electricity Conversion GRT Deduction	7-9-103.1
Electricity Exchange GRT Deduction	7-9-103.2
Fuel for Space Vehicles Exemption from GRT and Compensating Tax	7-9-26.1
Goods and Services for the DOD Related to Directed Energy and Satellites GRT Deduction	7-9-115
Locomotive Engine Fuel GRT and Compensating Tax Deduction	7-9-110.1 and 7-9-110.2
Lottery Retailer Receipts GRT Deduction	7-9-87
Medical and Health Care Services GRT Deduction	7-9-77.1
Microbrewer Beer and Small Wineries Rate Differential from Liquor Excise Tax	7-17-5(A)(5) and 7-17-5(A)(6)
Military Construction Services GRT Deduction	7-9-106
Military Transformational Acquisition Programs GRT Deduction	7-9-94
Natural Gas Exemption from Oil and Gas Severance Tax	7-29-4(B)(1)
Natural Gas Rate Differential from Oil and Gas Emergency School Tax	7-31-4(A)(6) and 7-31-4(A)(7)
Natural Gas Rate Differential from Oil and Gas Severance Tax	7-29-4(A)(4), 7-29-4(A)(6), and 7-29-4(A)(7)
Newspaper Sales GRT Deduction	7-9-64
Oil and Other Liquid Hydrocarbons Exemption from Oil and Gas Severance Tax	7-29-4(B)(2)
Oil and Other Liquid Hydrocarbons Rate Differential from Oil and Gas Emergency School Tax	7-31-4(A)(4) and 7-31-4(A)(5)
Oil and Other Liquid Hydrocarbons Rate Differential from Oil and Gas Severance Tax Rate	7-29-4(A)(3), 7-29-4(A)(5), 7-29-4(A)(8), and 7-29-4(A)(9)
Production or Staging of Professional Contests GRT Deduction	7-9-107
Publication Sales GRT Deduction	7-9-63
Purses and Jockey Remuneration at New Mexico Racetracks Exemption from GRT	7-9-40(A)
Railroad Equipment, Aircraft, and Space Vehicles Exemption from Compensating Tax	7-9-30
Real Estate Transactions GRT Deduction	7-9-66.1

Sale and Use of Agricultural Implements, Farm Tractors, Aircraft, and Motor Vehicles that Don't Have to be Registered GRT and Compensating Tax Deduction	7-9-62 and 7-9-77
Sale of Software Development Services GRT Deduction	7-9-57.2
Spaceport-Related Activities GRT Deduction	7-9-54.2
Space-Related Test Articles Deduction from Compensating Tax	7-9-54.4
Test Article Deduction from Compensating Tax	7-9-54.5
Uranium Enrichment Plant Equipment Deduction from Compensating Tax	7-9-78.1
Uranium Hexafluoride and Uranium Enrichment GRT Deduction	7-9-90

APPENDIX C: FREQUENTLY USED ACRONYMS

ACA – Affordable Care Act

CIT - Corporate Income Tax

CREG – Consensus Revenue Estimating Group

CRS - Combined Reporting System (CRS returns include GRT, compensating tax, and withholding tax)

DOH – New Mexico Department of Health

EDD – New Mexico Economic Development Department

EMNRD – New Mexico Energy, Minerals, and Natural Resources Department

GGRT - Governmental Gross Receipts Tax

GRT - Gross Receipts Tax

HSD – New Mexico Human Services Department

ITGRT - Interstate Telecommunications GRT

LVGRT - Leased Vehicle GRT

MCF - 1,000 Cubic Feet

MFA - New Mexico Mortgage Finance Authority

MVX - Motor Vehicle Excise Tax

NAICS – North American Industry Classification System

NMDOT – New Mexico Department of Transportation

NMENV – New Mexico Environment Department

ONGARD – Oil and Natural Gas Administration and Revenue Database

PIT - Personal Income Tax

PPLF – Petroleum Products Loading Fee

REPTC – Renewable Energy Production Tax Credit

RSTP – Revenue Stabilization and Tax Policy - an interim legislative committee

TIDD - Tax Increment Development District

TPP - Tangible Personal Property

TRD - New Mexico Taxation and Revenue Department

WDT - Weight Distance Tax

WTI - West Texas Intermediate

APPENDIX D: PRINCIPLES OF GOOD TAX POLICY

There has been much discussion in recent years about what makes good tax policy, and there are a number of principles which establish consensus. We provide a brief overview of each below. It must be noted, however, that these principles are often in conflict, and it is the responsibility of the Legislature and executive to work together to maintain balance between these principles.

Perhaps the most glaring example of how some principles can overwhelm others is New Mexico's Gross Receipts and Compensating Tax Act. It has become increasingly complex as efforts have been made to achieve Equity, Efficiency, and — with recent reporting requirements — Accountability. Put another way, Simplicity has been sacrificed on the altar of other tax policy principles.

We use this illustration not to disparage any particular section of the tax code but to remind policy makers that reliance on these principles requires considerations of how application of one principle impacts other principles.

ADEQUACY

Tax revenues should be adequate to support needed government services. Inherent in this principle is the fact that taxes are necessary in order to provide these services. Unfortunately, there is no objective measure as to what constitutes "adequate" as this concept is tied tightly to the determination about what services government should provide and at what level of service these should be provided. Adequacy is often cited as the reason for increasing taxes without a corresponding conversation about the appropriateness of the services being provided or the appropriateness of the level of that service. The two conversations should take place together.

EQUITY

Tax equity or fairness is concerned with how tax burdens are distributed among taxpayers. There are two different types of equity: 1) "vertical" equity which says that tax burdens should be distributed according to taxpayers' ability to pay, so that taxpayers with greater ability to pay bear a larger burden than those with a lesser ability to pay, and 2) "horizontal" equity which is interested in ensuring that similarly-situated taxpayers face similar tax burdens. Without horizontal equity, the government is putting its thumb on the scale by giving one taxpayer a competitive advantage over another. There may be legitimate policy reasons for doing so, but it should neither be done lightly nor without an understanding about what is happening.

EFFICIENCY

In this context, efficiency is the term economists apply to policies that benefit economic growth. Tax policies affect the efficiency of the economy in complicated ways. As a general rule, tax efficiency requires that taxes be levied in such a way as to minimize market distortions that occur as taxpayers substitute untaxed goods for taxed goods so as to reduce tax burdens. As an example, income taxes on labor income may induce taxpayers to work less and instead use their time for non-taxed leisure. The result is a lower labor supply and less economic growth.

Evaluation of efficiency in the application of economic theory is complicated when an activity generates externalized costs, such as environmental degradation. These costs are "external" in the

sense that they may not be fully considered by individual actors in their marketplace decisions. In this case, taxes may be imposed as proxies for costs that would otherwise not be taken into account and can arguably improve the functioning of the economy. For example, this reasoning supports tax expenditures for renewable energy because they may have the effect of reducing pollution, an important example of an external cost.

SIMPLICITY

Taxpayers incur compliance costs as they prepare, submit, and keep records about tax returns. They also face significant penalties for failure to correctly prepare those returns. New Mexico's state and local governments incur administrative costs as they collect taxes, check on the accuracy of tax returns and tax payments, and deal with taxpayers who underpay or fail to pay. These costs are inescapable, but their magnitude is affected by how taxes are defined and collected: the more complicated the code, the higher the cost that the State must bear to ensure compliance.

While they may increase accountability, tax expenditures that require additional reporting move away from the tax principle of simplicity - for both the taxpayer and the administration of the tax code. Although generally hidden from view, the costs of collection and compliance impose significant burdens on society and should be kept to a minimum level, consistent with other goals.

ACCOUNTABILITY

Good tax policy suggests that tax preferences should be easy to monitor and evaluate. Moreover, taxes should be transparent so that taxpayers can better evaluate government policy. Improved accountability is an important goal of this tax expenditure report.

INDEX OF STATUTES

Please note that statutes are not listed in numerical order by tax program. The software orders the statutes numerically but does not recognize the hyphenated sections. In short, it lists, for example, 7-12-1 et seq. before 7-9-1.